

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 08:08CR00304-001(RHK)

United States of America,

Plaintiff,

v.

**DEFENDANT'S POSITION
REGARDING SENTENCING**

Deanna Lynn Coleman,

Defendant.

Defendant Deanna Lynn Coleman's position regarding sentencing is quite simple: She should be given a sentence that does not include a Bureau of Prisons disposition. The seven compelling reasons for this request are these: (1) Before Ms. Coleman came to the government, she had other options. She had immediate access to millions of dollars. She could have cashed in her chips and fled to any number of countries that do not extradite to the United States rather than running the risk of a prison sentence. (2) Instead, she chose to do the right thing and on September 8, 2008, she met with the U.S. Attorney in Minneapolis armed with a 5" thick stack of documents that laid out a \$3.5 billion fraud case for the government on a silver platter. (3) In its proffer agreement with Ms. Coleman, the government specifically agreed that based on her level of cooperation she may warrant a recommendation of a non-prison sentence.¹ (4) Ms. Coleman's subsequent cooperation was unprecedented and staggering. She contributed 437 and ¾ hours of high value cooperation and the government agrees that her assistance was

¹ See Exhibit A, Proffer Letter dated September 8, 2008 and signed by Deanna Coleman, Allan Caplan and Frank J. Magill, Jr., Assistant United States Attorney.

extraordinary and unprecedented. 5) The government has a long history of rewarding cooperating witnesses with extremely generous sentences. Typically this has occurred in cases where the informants only agreed to cooperate *after* the criminal schemes were detected or they were serving lengthy prison sentences or had already been indicted. (6) Ms. Coleman came forward at a time when Tom Petters (hereinafter “Petters”) was not on the government’s radar for any illegal activity, let alone a Ponzi scheme that is the largest fraud ever prosecuted in the State of Minnesota and one of the largest fraud cases ever prosecuted in the United States. By coming forward when she did, she stopped cold any additional large-scale funds from being raised and dissipated by Petters’ scheme. (7) Finally, a sentence without a Bureau of Prisons disposition will encourage future whistleblowers, who may be privy to inside information about existing but yet undetected fraud, to come forward and assist authorities. The government agrees that Ms. Coleman’s cooperation was staggering. Ms. Coleman respectfully requests that this Court will make an independent determination of the magnitude and significance of her assistance and sentence her to a non-Bureau of Prisons Disposition.

ARGUMENT

I. Before approaching the authorities, Ms. Coleman had other options that would not have placed her at risk of criminal prosecution and incarceration.

When Ms. Coleman approached authorities she had access to millions of dollars. She could have just as easily cashed in her accounts and fled to any number of countries that do not have extradition treaties with the United States. She could have lived her remaining life in the lap of luxury funded by her ill-gotten gains. The United States does not have a bilateral extradition treaty with more than 80 countries, which include the

Maldives, Montenegro, and Morocco, to name a few.² Fleeing to any one of these countries may be seen as preferable to even a day in a federal prison facility. With the money that Ms. Coleman had available to her, she could have relocated free from concern about “facing the music,” for her involvement in the Petters Ponzi scheme.

II. The Government signed an agreement stating that it would consider a sentence that did not include a Bureau of Prisons disposition if Ms. Coleman were to cooperate.

Instead of cashing in her chips and fleeing the country, on September 8, 2008, Ms. Coleman and her attorney walked into the United State’s Attorney’s Office armed with information about the existence of a \$3.5 billion dollar Ponzi scheme perpetrated by Ms. Coleman’s employer, Petters, a famous local businessman with a trusted reputation in the community. The government responded eagerly. Without yet knowing the staggering quality or quantity of information that Ms. Coleman was about to provide, the government outlined the terms and conditions of any subsequent meeting with Ms. Coleman as well as consideration for the information she could provide. In that proffer letter, dated September 8, 2008, the Government wrote:

The purpose of this letter is to provide you with an opportunity to provide the government with information regarding a large scale fraud. We understand that you may have some degree of criminal culpability with respect to the fraud that you now wish to reveal. In reliance upon your attorney’s representation that you were working at the direction of

² See Exhibit B, Extradition To and From the United States: Overview of the Law and Recent Treaties, Michael John Garcia, Legislative Attorney, Congressional Research Service, March 17, 2010, Appendix B, at 43, listing the following countries that do not have a bilateral extradition treaty with the United States: Afghanistan, Algeria, Andorra, Angola, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Benin, Butan, Bosnia and Herzegovina, Botswana, Brunei, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, the Central African Republic, Chad, China (People’s Republic of China), the Union of the Comoros, Croatia, Côte d’Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Georgia, Guinea, Guinea-Bissau, Indonesia, Iran, Kazakhstan, Korea, North, Kuwait, Kyrgyzstan, Laos, Lebanon, Libya, Macedonia, Madagascar, the Maldives, Mali, Mauritania, Moldova, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Niger, Oman, Qatar, the Russian Federation, Rwanda, Samoa, São Tomé & Príncipe, Saudi Arabia, Senegal, Serbia, Somalia, Sudan, Syria, Taiwan, Togo, Tunisia, Turkmenistan, Uganda, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Vatican City, Vietnam, Western Samoa, Yemen, and Zaire.

another individual, and subject to confirmation of his representation, we have agreed to the following: if, after considering the full details of the fraud, your personal culpability and the full value of the cooperation you provide, this Office determines to prosecute you for your conduct, you will be charged with one count of conspiracy under Title 18, United States Code, Section 371. You will also be allowed to enter into a cooperation agreement with the government in conjunction with a plea agreement to resolve any such charge. *Based on the level [of] cooperation and the disclosure of the fraud, the government would consider making a recommendation for a non-Bureau of Prisons disposition.*³

Not only did the government state that it would consider recommending a non-prison sentence, in the proffer letter, the government also added that “we have agreed to consider [the possibility that you should not be prosecuted].” These were hardly standard provisions in a proffer agreement. Even after the government knew the extent of Ms. Coleman’s participation in the fraud, a month later, on October 8, 2008, at the time she pleaded guilty, the government in her plea agreement continued to urge that “it will exercise its discretion in good faith” in connection with a 5K1.1 motion for a downward departure based on the full extent of Ms. Coleman’s cooperation.⁴

III. The level of Ms. Coleman’s cooperation was staggering and unprecedented.

Having agreed to consider not even charging her in connection with this \$3.5 billion Ponzi scheme, the government listened as Ms. Coleman presented to them the biggest case of their careers, detailing the extent of a multi-billion dollar fraud. Ms. Coleman told law enforcement that she worked for Petters Company, Inc. (“PCI”). As an employee of PCI, and at the direction of Petters, the owner and president of this company, Ms. Coleman fabricated phony purchase orders used to induce third parties to provide the company with billions of dollars in loans. The documentation purported to

³ See Exhibit A, at 2 (emphasis added).

⁴ See Exhibit C, Plea Agreement, dated October 8, 2008, at 9.

memorialize the purchase of merchandise by PCI from two supplier companies. PCI then told the third-party lenders that they would resell the merchandise to “big box” retailers. These transactions were entirely fictitious. Ms. Coleman also outlined the identities and roles played by her co-conspirators.

As the scheme grew, Petters purchased and operated other real companies, using the ill-gotten gains of his Ponzi scheme to purchase and run these companies, which included Petters Warehouse Direct, RedTag, Fingerhut, Polaroid and Sun Country Airlines. This allowed Petters to create and maintain his façade as a successful businessman.

Petters was obviously capable of smooth-talking sophisticated investors out of billions of dollars. He also convinced Ms. Coleman that his exit strategy involved selling off his successful companies such as Sun Country and Polaroid, paying back all the investors and no one would be any the wiser. When she no longer believed he would ever be capable of paying his investors back, Ms. Coleman brought this case to the government.

Petters fraudulently secured more than \$3.5 billion over the course of more than 13 years. Many innocent people lost their entire life’s savings. During the course of his Ponzi scheme, Petters also recruited several others to participate in his fraud, almost all of whom were later indicted as co-conspirators. For her efforts, Ms. Coleman and her co-conspirators received millions of dollars. The vast majority of the fraud proceeds were used to fund the operations of other legitimate companies owned by Petters, to pay others who assisted in the fraud scheme, and to fund Petters’ extravagant lifestyle.

At the time Ms. Coleman first revealed the Ponzi scheme to the government, there

had not been so much as a hint of illegal activity surrounding either Petters or his many corporations. In fact, Petters was perceived by many as a Horatio Alger story come to life. He was a self-made business man who started with little and grew an empire. He was a trusted member of the community known for his extreme generosity. There is little doubt that he would have continued to raise large sums of money were it not for Ms. Coleman putting an end to the Ponzi scheme. By coming forward when she did, Ms. Coleman served up to government agents what may well be the largest case of their careers.

At the initial proffer meeting, Ms. Coleman agreed to go undercover and record Petters' conversations so as to incriminate Petters and his cohorts in the underlying fraud. Over the course of the following few weeks, Ms. Coleman recorded hours of conversations with Petters, White and other co-conspirators, capturing them discussing their financial crisis as well as the history of the scheme and their efforts to placate investors and perpetuate additional fraud. Had Ms. Coleman not been so personally involved in the scheme, she would never have been able to get close enough to Petters, White, or anyone else in the corporation, to be privy to private conversations about unlawful activities. The fact that she was "up to her eyebrows" in the Ponzi scheme put her in a position of maximum utility to the government.

After the search of PCI and the seizure of records, Ms. Coleman combed through hundreds of boxes of financial records relating to the fraudulent transactions and saved investigators months of work by identifying relevant documents. In total, she recorded over 437 hours of time spent personally on the investigation to assist in the prosecution of not only her codefendants, but also herself. In addition, she helped and continues to this

day assisting in the recovery of assets for the investors. Without her, the investigation would have dragged out months, or even years, longer. Due exclusively to the high value information she provided and the vast amount of evidence she helped compile, her co-conspirators White, Catain, Reynolds, Wehmhoff, Katz, and Bell, had no choice but to plead guilty at the soonest possible moment and attempt to secure some sentencing consideration by cooperating with the government.

Furthermore, Ms. Coleman was the only individual, other than Petters, who was authorized to access PCI's bank account at M&I Bank, which was opened in 2001. Because Petters was not about to cooperate with the investigation, Ms. Coleman was the only person who could provide any detail on the \$35,353,320,826.83 that was wired into this account between January, 2003 and September, 2008. She was able to tell authorities that although PCI was purportedly selling hundreds of millions of dollars worth of merchandise, the vast majority of the deposits in the accounts actually came from duped investors. The funds were largely used to pay previous investors; the rest went to pay Coleman and other employees, to Petters' personal accounts, and to fund Petters' companies. Ms. Coleman's inside knowledge was essential to properly detail the flow of billions of dollars that were funneled through the M&I Bank account.

Heralded as the prosecution's "star witness," Coleman took the stand against her former boss in November of 2009 and detailed how Petters funneled money from PCI into other business ventures, how the company took billions from hedge funds and other investors, and how Petters and his cohorts lied to the people who trusted him.⁵ Although Petters tried to deny his involvement in the fraud, attempting to place blame on Ms.

⁵ See Exhibit D, Jim Freitag, Petters trial: Betrayed trust, hidden recorders, Star Tribune, November 3, 2009, at 1-4, available at <http://www.startribune.com/business/68596582.html>.

Coleman and other employees, when he was in front of a jury of his peers, his charisma failed him at the time he needed it the most.

Even after Petters' trial, conviction, and sentencing, Ms. Coleman continues to assist the victims of the scheme. For example, on July 14, 2010, she met with attorneys from bankruptcy trustees and spent several hours answering questions regarding the flow of funds into, and out of, PCI accounts. Attorney Jonathan Feldman, as representative of the Trustee for two hedge funds, wrote that "I found Ms. Coleman to be cooperative; she answered my questions in what appeared to be an open and forthright manner."⁶

On July 27 and 28, 2010, she was deposed in connection with *Polaroid Corporation, et al., v. Ritchie Capital Management, L.L.C., et al.*, Case No., 08-46617, a case in front of the United States Bankruptcy Court, District of Minnesota. She spent two days detailing the fraudulent transactions and testifying about the nature of the monies that flowed to and from PCI. These dates represent just a fraction of the time she's spent assisting the investors who lost billions of dollars. She will continue to cooperate as needed to provide any and all information necessary to assist Petters' victims.

IV. Having served the case up to prosecutors on a silver platter, Ms. Coleman should benefit from the agreement she made with the federal government.

To assess the staggering level of Ms. Coleman's cooperation, before she was charged and even after she pled guilty, requires close scrutiny of the deal Ms. Coleman struck with the federal government before she provided any of this vital information. Not only did the government state that it would consider recommending a non-prison sentence based on her level of cooperation, in the actual proffer letter, the government also wrote that "we have agreed to consider [the possibility that you should not be

⁶ See Exhibit E, Letter from Jonathan Feldman to Judge Kyle, dated July 30, 2010.

prosecuted].”⁷

The government agrees that Ms. Coleman’s cooperation was extraordinary. Furthermore, Coleman was obviously charged and prosecuted in connection with her conduct. She immediately pled guilty to one count of conspiracy to commit mail fraud and agreed to forfeit essentially all of her worldly possessions. She now has a lifelong felony conviction for conspiracy to commit mail fraud and is virtually penniless. Is there another person in the history of fraud prosecution in the United States who has ever rendered more substantial assistance to the government than Ms. Coleman in a situation of this magnitude that was not even on the government’s radar?

Although the government will likely move for a downward departure pursuant to U.S.S.G. § 5K1.1, Ms. Coleman urges this Court to make an independent determination of the worth of Ms. Coleman’s assistance, take into account her agreement with the prosecuting authorities, and give her a sentence without a term of incarceration. Under U.S.S.G. § 5K1.1, a court can independently evaluate the significance and usefulness of the defendant’s assistance including the truthfulness, completeness, and reliability of any information or testimony provided by the defendant, the nature and extent of the defendant’s assistance, any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance, and the timeliness of the defendant’s assistance.

This Court must sentence Ms. Coleman to what it deems just, and it is only fair that she benefit from the terms negotiated between herself and the government. Indeed, on June 10, 2010, Special Agents Brian Kinney and Eileen Rice, Forensic Accountant Josiah Lamb of the Federal Bureau of Investigation, and Kathy Klug of the Internal

⁷ See Exhibit A, at 3.

Revenue Service-Criminal Investigation Division were awarded the 11th annual U.S. Attorney's Office Law Enforcement Recognition Award in appreciation for their "tireless investigative efforts over a period of almost two years," in the prosecution of the Petters Ponzi scheme.⁸ The government got the benefit of its original proffer agreement with Ms. Coleman and has since been commended for its efforts.

Ms. Coleman acknowledges that she profited financially from the fraud, and was indeed a major participant in the fraud for many years. But in fact had Ms. Coleman not been so deeply entrenched in Petters' Ponzi scheme, the quantity and quality of information she could have provided to authorities could never have been as valuable as it actually was. She would never have been able to record conversations between Petters and his cohorts implicating themselves in the fraud. Because she was so intimately familiar with the day-to-day workings of the Ponzi scheme, and was privy to information and bank accounts that no one other than she and Petters had access to, she was able to provide the government information of unprecedented value. The true measure of her assistance is evidenced by the fact that the government was able to move forward in a prosecution of this magnitude with lightning speed.

Although some may argue that Ms. Coleman merits a prison sentence in connection with lengthy participation in Petter's fraud, this Court is bound to follow the Canons of Judicial Responsibility and must not be swayed by partisan interests, public clamor or fear of criticism.⁹ The Court should thus consider the staggering value to the government of Ms. Coleman's help and impose a sentence without incarceration.

⁸ See Exhibit F, Federal Bureau of Investigation, Department of Justice Press Release, June 8, 2010, Federal Agents Honored by U.S. Attorney for Investigating Largest Financial Crime in Minnesota History, available at <http://minneapolis.fbi.gov/dojpressrel/pressrel10/mp060810b.htm>.

⁹ See Model Code of Judicial Conduct, Canon 3.

V. The Government has a history of rewarding cooperation that results in the successful prosecution and conviction of the perpetrators of widespread criminal schemes.

Salvatore “Sammy the Bull” Gravano was an underboss of the Gambino crime family.¹⁰ Although he admitted to participating in over 19 murders in his role within the Gambino crime ring, he is best known as the man who helped bring down family boss John Gotti by becoming an FBI informant and testifying against Gotti in 1992.¹¹ Not only did he help destroy a notorious crime boss, his testimony at six subsequent trials resulted in the conviction of 36 Mafia participants.¹² In exchange for this testimony, and even in light of his confession to 19 murders, Salvator Gravano received a sentence of five years and was even released early.¹³ At his sentencing hearing both the judge and prosecutor praised Gravano. Prosecutor John Gleeson told Judge Glasser that Gravano’s testimony created a veritable flood of other organized crime members stepping forwards to cooperate, including the acting boss and the under boss of the Lucchese Family: “He has rendered extraordinary, unprecedented, historic assistance to the government.”¹⁴ Was Ms. Coleman’s cooperation anything short of extraordinary, unprecedented, or historic?

Judge Glasser also hailed Gravano’s bravery in coming forward to testify: “There has never been so important a defendant in organized crime who has made the leap from one social plane to another.” Judge Glasser said before imposing the sentence, “His stature in organized crime is so unique. His unprecedented decision to cooperate

¹⁰ See Exhibit G, John J. Goldman, Gotti Accuser Sentenced to Five Years in Plea Deal, Los Angeles Times, September 27, 1994, at 1, available at http://articles.latimes.com/1994-09-27/news/mn-43689_1_organized-crime.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

encouraged others to cooperate.”¹⁵ Was this not also the case with Ms. Coleman’s co-conspirators? The successful prosecution of John Gotti was so important to United States authorities that they were willing to let a person who confessed to participating in a mere 19 murders go free, and even praised him for his bravery and service at his sentencing hearing, in order to take down the boss of a Mafia crime family.

Likewise, prosecutors provided similar inducements to witnesses during the investigation and prosecution of Manuel Antonio Noriega.¹⁶ Floyd Carlton faced life in prison with no parole plus 145 years for flying cocaine into the United States as part of Noriega’s drug ring.¹⁷ His grand jury testimony, however, provided the backbone of the 1988 indictment against Noriega.¹⁸ In exchange for his cooperation, he was released after serving just three years in prison.¹⁹ Furthermore, Prosecutors allowed him to transfer his drug-related assets from Panama into the United States with no risk of forfeiture or prosecution for unpaid taxes.²⁰ The government also paid him \$211,000 to support his wife, their three children and a nanny, and granted them permanent U.S. residency and work permits.²¹

Max Mermelstein helped smuggle 55 tons of cocaine worth \$360 million into Florida and Los Angeles and faced life in prison plus 90 years for his participation in the

¹⁵ *Id.*

¹⁶ See Exhibit H, Warren Richey, Noriega Trial Aids Criminals Traffickers Profit from Testimony Deals, South Florida Sun-Sentinel, 1A, November 24, 1991, at 1, available at http://articles.sun-sentinel.com/1991-11-24/news/9102180477_1_traffickers-prosecutors-drug-related-assets.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Noriega drug scheme.²² However, when he agreed to cooperate against Noriega he emerged as the most important witness in the nation against what law enforcement officials said was the most dangerous criminal organization in the world.²³

“He is probably the single most valuable government witness in drug matters in the country today. I don't think it's possible to overstate the significance of his testimony,” said James P. Walsh, head of the major narcotics section for the U.S. Attorney's Office in Los Angeles at that time.²⁴

Mermelstein also testified in front of grand juries in New Orleans, Miami and Los Angeles.²⁵ His accounts led to the indictments and convictions of some of the most elusive and powerful drug lords in the world. These were the men who operated the Columbian drug cartel that is believed to have been responsible for 75% of the cocaine that was shipped into the United States at that time.²⁶

For his cooperation he spent two years in prison and has since been paid \$250,000.²⁷ In addition, taxpayers extended a total of \$414,000 to support Mermelsteins' wife, two children, and members of his extended family.²⁸

The government has a history of rewarding cooperation that results in successful prosecution of massive criminal schemes. The United States was so desperate to convict John Gotti, it let an admitted mass murderer go free because his testimony single-handedly led to the successful prosecution of a crime boss. The testimony of known

²² Exhibit I, Kim Murphy, One Man's Word Against World's Most Dangerous Cocaine Cartel, L.A. Times, July 6, 1987, at 4-5, available at http://articles.latimes.com/1987-07-06/news/mn-1315_1_cocaine-cartel; see also Exhibit HI at 2.

²³ Exhibit I, at 1.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 1-2.

²⁷ See Exhibit H, at 2.

²⁸ *Id.*

drug smugglers was of such benefit that they were not only given negligible prison sentences but also given hundreds of thousands of dollars as consideration for the information they provided against Manuel Noriega and other drug lords.

Ms. Coleman's assistance is even more significantly striking highlighted against the backdrop of Mermelstein, Carlton and Gravano. Unlike any of these men, she came forward with information incriminating herself and others in a vast fraudulent scheme *before* the government suspected any unlawful activity. She willingly placed herself directly in the line of fire.

Had Ms. Coleman not been so deeply entrenched in Petters' Ponzi scheme, the quantity and quality of information she could have provided would have been worthless. And like Mermelstein, Carlton, and Gravano, because she was so intimately familiar with the day-to-day operation of the criminal enterprise, she was able to single-handedly serve this case up to the prosecutors on a silver platter.

Ms. Coleman's testimony to the authorities was essential in the successful prosecution and conviction of the perpetrators of the largest Ponzi scheme uncovered in Minnesota history, and indeed, one of the largest in the entire United States. She has cooperated fully in the divestment of millions of dollars of her personal property. Rewarding her with a non-prison sentence in this highly unique case would not be unreasonable.

VI. Ms. Coleman informed authorities about the Petters scheme before any criminal activity was suspected, thereby saving investors billions of dollars, and she would be entitled to a sentence departure under U.S.S.G. § 5K2.16.

The Sentencing Guidelines specifically encourage rewarding one who comes forward before a crime is discovered. Under U.S.S.G. § 5K2.16, a downward sentencing

departure is warranted if “the defendant voluntarily discloses to authorities the existence of, and accepts responsibility for, the offense prior to the discovery of such offense, and if such offense was unlikely to have been discovered otherwise. . .” The same section notes that the provision does not apply where the motivating factor is the defendant’s knowledge that discovery of the offense is likely or imminent. U.S.S.G. § 5K2.16.

It is incontrovertible that Ms. Coleman contacted authorities before any law enforcement agency suspected any unlawful activity. Furthermore, there is no doubt that, absent Ms. Coleman’s confession, the fraud would have continued undetected for some undetermined period of time. Its discovery was neither likely nor imminent. Although Petters and his cohorts manifested concern in 2008 about the continued perpetration of their scheme, PCI had survived detection in the past, even when investors incessantly pressured Petters for an account of their monies. Petters survived numerous financial storms and PCI emerged unscathed.

For example, in 2000, Petters delayed repaying GE Capital until he obtained funds from other investors, even though GE was putting enormous pressure on him to account for funds and was aware that the purported sales of electronics to Costco were fraudulent. Among other things, he promised future payment, lied about the activities of retailers, wrote checks from accounts with insufficient funds, and ignored investors. In a series of telephone conversations and voicemails, Petters attacked GE for contacting his retailers directly, and insisted they did not understand his business. When GE insisted that Petters immediately pay off PCI’s credit line, he sent GE eight checks totaling \$38.5 million. These checks bounced. In the meantime, however, he convinced other investors to give him millions, thus buying the time he needed to assuage GE. Over the next few

weeks, Petters was able to repay approximately \$35 million in multiple installments to GE and dodge a bullet.

This was only the beginning of Petters' monetary crises. However, he was able to keep the scheme afloat over the next several years by purchasing and operating other real companies, creating a façade of a successful businessman, and lulling other investors into providing billions of dollars through his charismatic personality and because he maintained the air of legitimacy by his non-fraudulent activities.

By the end of 2007, Petters faced yet another financial crisis. He and his associates were struggling to find additional funding by securing new investors and the scheme was in danger of falling apart. PCI was in default on hundreds of millions of dollars worth of notes held by a single investor, Lancelot Funds. Fortunately for Petters, Lancelot Funds was operated by Gregory Bell. When Bell became aware that PCI was late in paying its notes, he failed to report the delinquent funds to Lancelot investors and instead agreed to extend repayment of the loans. He also conspired to conduct 86 fraudulent transactions that gave investors and potential investors the false impression that PCI was paying its promissory notes on time.

Due to Bell's participation, Petters' fraud was able to continue undetected. Even when faced with potentially crippling complications, Petters managed to keep the scheme alive by recruiting additional cohorts. Petters lied his way through financial crises and recruited others to help him hide his fraud. There is little doubt that he would continue to smooth talk sophisticated investors out of hundreds of millions or even billions of dollars more, having already weathered significant financial storms. The Petters empire may have gone unchecked for months, or even years, if Ms. Coleman had not come forward.

Ms. Coleman told authorities that, had she not come forward with information about the fraud, Petters' next endeavor was a plan involving the building of hotels where he would have tried to secure additional investors. Hundreds of millions or even billions of dollars could have been lost absent the help Ms. Coleman provided. When the search warrant was executed by the Government on September 24, 2008, Petters was still seeking new investment funds. Even though he had acknowledged the company's impending financial crisis, even after Petters faced criminal prosecution, he "continued to assure numerous investors that they would be okay and that the investigation was unfortunate, overblown, and unnecessary."²⁹ The information Ms. Coleman provided to authorities and the testimony she gave against her former boss at trial ultimately ended Petters' ongoing quest to fleece innocent victims of their money.

As recently as August 6, 2010, a Lakeville, Minnesota man was charged in U.S. District Court in connection with operating an \$80 million Ponzi scheme.³⁰ As clearly evidenced by the massive fraud schemes that have only recently been detected,³¹ if Ms. Coleman had not approached authorities when she did, Petters' scheme could have continued for years before it unraveled, at the price of hundreds of millions or even billions of dollars defrauded from innocent investors. While it is certainly true that the scheme may have one day been discovered, how many of billions of dollars would have been dissipated in the interim had not Ms. Coleman come forward when she did?

For the reasons discussed above, Ms. Coleman's case also clearly falls outside the

²⁹ See Presentence Report prepared in Ms. Coleman's case, dated July 23, 2010, p. 14.

³⁰ See Exhibit J, Abby Simmons, Feds allege Lakeville man ran \$80 million Ponzi scheme, Star Tribune, August 6, 2010, available at <http://www.startribune.com/local/south/100167514.html?elr=KArksUUUoDEy3LGDiO7aiU>.

³¹ See Argument VII, below, for a complete discussion of the numerous Ponzi schemes that have been discovered and prosecuted since Ms. Coleman first approached authorities on September 8, 2008.

“heartland” of similar cases. She came forward to authorities before she was suspected of any criminal activity and at the risk of being criminally liable for her participation in the scheme.³² A “heartland” type case certainly does not involve a person risking their freedom and livelihood to take the scheme down before government authorities are aware of any illegal activity, and while that person could still flee. Ms. Coleman was that person. She risked her freedom, her livelihood, all her material possessions, as well as her future, to set things right. A sentence without a period of incarceration is clearly supported by the unique circumstances of this case.

VII. Ms. Coleman’s sentence should encourage those still enmeshed in yet undetected fraud to come forward with information about their criminal activity.

Numerous Ponzi schemes have been discovered and prosecuted in the nearly two years since Ms. Coleman first spoke with authorities, and there may well be still more that remain undetected. The number of Ponzi schemes discovered in 2008 was startling.³³

³² The Sentencing Guidelines allows a departure from the range if the court finds “there exists an aggravating or mitigating circumstance of a kind, to a degree, not adequately taken into consideration” by the Sentencing Commission in formulating the Guidelines, § 3553(b). In *United States v. Koon*, albeit a case decided before the mandatory guidelines were superseded by *Booker*, the United States Supreme Court noted that Guidelines were formulated to apply to a “heartland” of typical cases and that it did not “adequately ... consider[r]” atypical cases, 1995 U.S.S.G. ch. 1, pt. A, intro. comment. 4(b).

Even after *Booker*, the district court is still required to apply the Guidelines and to consider the recommended sentence as one factor in its decision. *Gall v. United States*, --- U.S. ---, 128 S.Ct. 586, 596 (2007). One step in applying the Guidelines is to determine whether or not to depart from the range specified in the Sentencing Table. See *United States v. Sierra-Castillo*, 405 F.3d 932, 936 n. 2 (10th Cir.2005).

“Before a departure is permitted, certain aspects of the case must be found unusual enough for it to fall outside the heartland of cases in the Guideline.” *Koon v. United States*, 518 U.S. 81, 98, 116 S.Ct. 2035 (1996); see also U.S.S.G. § 1A1.1 editorial note, ch. 1, pt. A, introductory cmt. n. 4(b) (“The Commission intends the sentencing courts to treat each guideline as carving out a ‘heartland,’ a set of typical cases embodying the conduct that each guideline describes.”). That is, whether the particular case lies within the heartland of similar offenses is a threshold question that a district court must decide when determining whether to grant a departure under the Guidelines.

³³ See Exhibit K, Leslie Wayne, [Troubled Times Bring Mini-Madoffs to Light](#), *The New York Times*, January 28, 2009, at 1-2, available at www.nytimes.com/2009/01/28/business/28ponzi.html?_4=1&pagewanted=print. On January 28, 2009, the New York Times reported that in 2008, 15 Ponzi schemes were prosecuted by the Forex Enforcement Task Force established by the Commodity Futures Trading Commission to prosecute

The number of Ponzi schemes discovered in 2009 was staggering; that year, the number of busted schemes quadrupled from 2008, with over 150 pyramid investment schemes collapsing.³⁴ The 2009 schemes ranged in size from a few hundred thousand dollars to a \$7 billion scheme orchestrated by financier Allen Stanford, and a \$1.2 billion scheme operated by Florida lawyer Scott Rothstein.³⁵ Ponzi schemes are still being uncovered in 2010. For example, Jacksonville, Florida broker Wayne McLeod confessed to investigators from the Securities and Exchange Commission on June 17, 2010, the details of a Ponzi scheme that defrauded investors of \$35 million.³⁶ On May 28, 2010, Manhattan investment guru Ken Starr was arrested for allegedly perpetrating a \$30 million fraud and Ponzi scheme, and the amount of the fraud is expected to grow as the investigation continues.³⁷ Again, as recently as August 6, 2010, a Lakeville, Minnesota man was charged in U.S. District Court in connection with operating an \$80 million Ponzi scheme.³⁸

Still more such schemes remain undetected. On February 14, 2010, CBS 60 Minutes correspondent Morley Safer reported that “even in this age of skepticism [after a

Ponzi cases where investors were told their money was being invested in foreign currencies. The article also cites to numerous Ponzi schemes uncovered in 2008 and January 2009, including a \$60 million Ponzi scheme perpetuated by Democratic donor Norman Hsu, a \$380 million scheme perpetrated by Nicholas Cosmo, a \$300 million scheme by Arthur Nadel, a prominent money manager in Florida, a \$23 million scheme perpetrated by George L. Theodule of Florida, a \$100 million scheme in Idaho and a \$50 million scheme in Philadelphia.

³⁴ See Exhibit L, Busted Ponzi Schemes Quadrupled in 2009, CBS News, Miami, December 28, 2009, at 1, available at <http://www.cbsnews.com/stories/2009/12/28/business/main6031163.shtml>. The article notes that more than 150 illegal pyramid schemes were discovered in 2009, up from 40 in 2008.

³⁵ See *id.*

³⁶ See Exhibit M, Abel Harding, Jacksonville broker Wayne McLeod confessed to Ponzi scheme, The Florida Times-Union, July 1, 2010, at 1, available at <http://jacksonville.com/new/crime/2010-07-01/story/jacksonville-broker-confessed-ponzi-scheme-death>

³⁷ See Exhibit N, Nelson Schwartz, Untangling a Ponzi Scheme with a Hollywood Twist, New York Times, June 6, 2010, at 1-4, available at <http://www.nytimes.com/2010/06/07/business/07starr.html>

³⁸ See Exhibit J.

year of revelations about Bernard Madoff], Ponzi schemes like Madoff's are thriving."³⁹

The report cites to Ponzi schemes perpetrated by Madoff; Texas Financier Allen Stanford, accused of a \$7 billion Ponzi scheme; and Park Avenue attorney Marc Dreier, the mastermind of a \$400 million Ponzi scheme; and Petters himself.⁴⁰

People continue to lose millions in similar frauds and Ponzi schemes. Ms. Coleman's decision to unveil the criminal activity of herself and her co-conspirators should be an incentive to current and future individuals who may be privy to information about yet-undetected fraud. These individuals may lack the courage to come forward and implicate themselves in fraudulent activity and thus risk a prison sentence. To a person with no prior contact with the criminal justice system, even a day in federal prison reflects considerable punishment. Individuals with no criminal history simply have no concept of the often Draconian sentences that potentially accompany federal fraud cases under the Federal Sentencing Guidelines.

In an interview on Minnesota Public Radio, Hank Shea, former U.S. Attorney and current legal ethicist, in reference to the Petters case stated that:

The important thing I think for all of us to recognize is that the reason this case came forward when it did was because one person stood up and did the right thing and reported the wrongdoing to authorities. And there are other people out there who are like Deanna Coleman. It's a question of courage. . . . There are other people who are out in our community right now who are in the same position she was in who know about people cheating on their taxes or stealing money from vulnerable adults or lying to school officials. We need to create a culture and an environment where they too will step forward and report wrong doing.⁴¹

³⁹ See Exhibit O, Pigeon Fever: Ponzi Schemes Still Thriving – 60 Minutes – CBS New, available at <http://www.cbsnews.com/stories/2010/02/11/60minutes/main6198863.shtml>.

⁴⁰ See *id.* at 2.

⁴¹ See Exhibit P, Interview with Assistant U.S. Attorney Hank Shea by Elizabeth Dunbar, Minnesota Public Radio (Dec. 3, 2009), available at <http://minnesota.publicradio.org/display/web/2009/12/03/petters-qa/>.

Mr. Shea is correct. Ms. Coleman's sentence should send the following message to others still enmeshed in fraudulent schemes: Society will stand by an individual's decision to risk their livelihood, all of their worldly possessions, and their freedom, to step forward and contact authorities, to assist in a subsequent investigation and prosecution, and to ultimately end criminal activities that affect innocent victims whose life savings may be lost. If Ms. Coleman receives a prison sentence this Court will send a message to potential whistleblowers that it is better to remain silent, to continue to hide the criminal activity for as long as possible, or even to cash in one's chips and forever leave the country – at the price of millions of additional dollars lost from innocent investors. The notion of a one or two-year prison sentence to those uneducated in the Federal Sentencing Guidelines would not induce anyone to do anything.

CONCLUSION

This Court has the opportunity to do the right thing. Ms. Coleman and the government agreed that if she cooperated with the government, and provided truthful and accurate information, she may not be prosecuted, much less face future imprisonment. Even after it knew the extent of her participation in the underlying fraud, the government continued to commit to act in good faith in Ms. Coleman's plea agreement executed a month later. The government agrees that Ms. Coleman's assistance was unprecedented and extraordinary. Given the fact that Ms. Coleman approached authorities while the fraud was still undetected, thereby saving future investors hundreds of millions or billions of dollars, and the fact that her level of cooperation has been, and continues to be, unprecedented, Ms. Coleman has earned a sentence equally unprecedented. From the moment Ms. Coleman decided to take this case to the government, and continuously over

the next two years, she did the right thing in all respects. She respectfully urges this Court to do likewise.

Respectfully submitted,

CAPLAN LAW FIRM, P.A.

Dated: August 16, 2010

s/ Allan H. Caplan

Attorney I.D. No. 14618
525 Lumber Exchange Building
10 South Fifth Street
Minneapolis, MN 55402
(612) 341-4570
acaplan@caplanlaw.com



*United States Attorney
District of Minnesota*

600 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415
www.usdoj.gov/usao/mn

(612)664-5600

September 8, 2008

VIA FACSIMILE

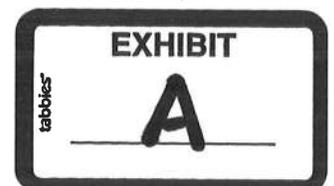
Deanna Lynn Coleman
c/o Allan Caplan, Esq.
525 Lumber Exchange Building
10 South Fifth Street
Minneapolis, MN 55402

Dear Ms. Coleman:

This office has been advised that you wish to meet with the government for the purpose of making a proffer to provide information regarding a large scale fraud.

The government is willing to meet with you under the following terms and conditions:

- (1) you will respond truthfully and completely to any and all questions or inquiries that may be put to you at the meeting;
- (2) except as otherwise provided in paragraphs 3, 4, and 5 herein, in any prosecution brought against you by this Office, the government will not offer in evidence in its case-in-chief, or in connection with any sentencing proceeding for the purpose of determining an appropriate sentence, any statements made by you at the meeting or any documents provided to us at or prior to the meeting;
- (3) notwithstanding paragraph 2 above, the government may use (a) information derived directly or indirectly from the meeting for any purpose, including direct and cross-examination of witnesses, and for the purpose of obtaining and pursuing leads to other evidence, which evidence may be used for any purpose by the government, and (b) statements made by you at the meeting for the purpose of cross-examination should you ever testify at any proceeding;
- (4) the government reserves the right to use any statements



Deanna Lynn Coleman

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September 8, 2008

or information provided by you in any prosecution for false statements, obstruction of justice or perjury;

- (5) your complete truthfulness and candor are express material conditions to the undertakings of the government set forth in this letter. Therefore, if the government should ever conclude that you knowingly withheld material information from the government or otherwise had not been completely truthful and candid, the government may use against you at trial or for any other purpose outside of trial, including sentencing, any statements made or other information provided by you during the meeting. If the government so concludes the foregoing, it will notify you before making any use of such statements or other information.
- (6) this agreement is limited to the statements made by you at the meeting to be held at the United States Attorney's Office on September 8, 2008, and does not apply to any statements made by you at any other time, whether oral, written or recorded; and
- (7) no understandings, promises, agreements and/or conditions have been entered into with respect to the meeting or with respect to any future disposition of the charges pending against you other than those expressly set forth in this Agreement and none will be entered into unless in writing and signed by all parties.

The purpose of this letter is to provide you with an opportunity to provide the government with information regarding a large scale fraud. We understand that you may have some degree of criminal culpability with respect to the fraud that you now wish to reveal. In reliance upon your attorney's representation that you were working at the direction of another individual, and subject to our confirmation of his representation, we have agreed to the following: if, after considering the full details of the fraud, your personal culpability and the full value of the cooperation you provide, this Office determines to prosecute you for your conduct, you will be charged with one count of conspiracy under Title 18, United States Code, Section 371. You will also be allowed to enter into a cooperation agreement with the government in conjunction with a plea agreement to resolve any such charge. Based on the level of cooperation and the disclosure of the fraud, the government would consider making a recommendation for a non-Bureau of Prisons disposition. This agreement is expressly contingent upon your fulfillment of the obligations set forth above, namely

Deanna Lynn Coleman

p. 3

September 8, 2008

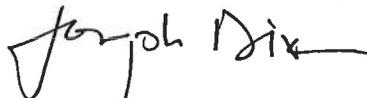
your agreement to respond truthfully and completely.

Your attorney has indicated that he believes you should not be prosecuted, and we have agreed to consider that possibility once we have been fully advised of all relevant facts. Without knowing all relevant facts, however, we cannot, and have not, made any representations regarding prosecution other than those set forth herein.

If the foregoing terms meet with your approval, please sign below.

Sincerely,

FRANK J. MAGILL, JR.
United States Attorney

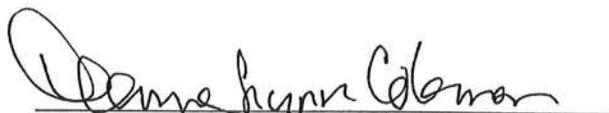


BY: JOSEPH T. DIXON, III
Assistant U.S. Attorney

I, Deanna Lynn Coleman, have read the agreement contained in this letter and have carefully reviewed it with my attorney. I understand it, and I voluntarily, knowingly and willingly agree to it without force, threat or coercion. No other promises or inducements have been made to me other than those contained or referenced in this letter. I am satisfied with the representation of my attorney in this matter.

Dated:

9/8/08


Deanna Lynn Coleman

I am Deanna Lynn Coleman's attorney. I have carefully reviewed every part of this agreement with her. To my knowledge, her decision to enter into this Agreement is informed and voluntary.

Dated:

9/8/08


Allan Caplan, Esq.



Extradition To and From the United States: Overview of the Law and Recent Treaties

Michael John Garcia
Legislative Attorney

Charles Doyle
Senior Specialist in American Public Law

March 17, 2010

Congressional Research Service

7-5700
www.crs.gov
98-958

CRS Report for Congress
Prepared for Members and Committees of Congress



Appendix B. Countries with Which the United States Has No Bilateral Extradition Treaty

Afghanistan	Georgia	Qatar
Algeria	Guinea	
Andorra	Guinea-Bissau	
Angola		Russian Federation
Armenia		Rwanda
Azerbaijan	Indonesia	
	Iran	
		Sao Tome & Principe
Bahrain		Saudi Arabia
Bangladesh	Kazakhstan	Senegal
Belarus	Korea, North	Serbia and Montenegro ^a
Benin	Kuwait	
Bhutan	Kyrgyzstan	Somalia
Bosnia and Herzegovina ^a		Sudan
Botswana	Laos	Syria
Brunei	Lebanon	
Burkina Faso	Libya	Taiwan ^b
Burundi		Tajikistan
		Togo
	Macedonia ^a	Tunisia
Cambodia	Madagascar	Turkmenistan
Cameroon	Maldives	
Cape Verde	Mali	
Central African Republic	Mauritania	Uganda
Chad	Moldova	Ukraine
China	Mongolia	United Arab Emirates
Comoros	Montenegro ^a	Uzbekistan
Croatia ^a	Morocco	
Ivory Coast (Cote D'Ivoire)	Mozambique	
		Vanuatu
		Vatican City
Djibouti	Namibia	Vietnam
	Nepal	
	Niger	
		Western Samoa
Equatorial Guinea		
Eritrea		
Ethiopia	Oman	
		Yemen, Republic of
		Zaire

- a. The United States had an extradition treaty with the former Yugoslavia prior to its breakup (32 Stat. 1890). Since then, it has recognized at least some of the countries which were once part of Yugoslavia as successor nations, see, e.g., *Arambasic v. Ashcroft*, 403 F.Supp.2d 951 (D.S.D. 2005) (Croatia); *Sacirbey v. Guccione*, 2006 WL 2585561 (No. 05 Cv. 2949(BSJ)(FM))(S.D.N.Y. Sept. 7, 2006)(Bosnia and Herzegovina), overruled on other grounds by 589 F.3d 52 (2d Cir. 2009).
- b. The United States severed official relations with Taiwan in 1979, when it recognized the People's Republic of China as the sole legal government of China. Certain agreements entered prior to the termination of official relations, as well as relations contemplated under multilateral agreements since then, are administered on a nongovernmental basis by the American Institute in Taiwan, which was established pursuant to the Taiwan Relations Act (P.L. 96-8).

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No.: 08-304 (MJD) *PAW*

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	PLEA AGREEMENT AND
DEANNA LYNN COLEMAN,)	SENTENCING STIPULATIONS
)	
Defendant.)	

The United States of America and Deanna Lynn Coleman (hereinafter referred to as the "defendant") agree to resolve this case on the terms and conditions that follow. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota. This agreement does not bind any other United States Attorney's Office or any other federal or state agency.

1. Charges. The defendant agrees to plead guilty to Count 1 of the Information, which charges the defendant with conspiracy to commit mail fraud, in violation of Title 18, United States Code, Section 371.

2. Factual Basis.

The defendant conspired and agreed with others to commit mail fraud as set forth below. The defendant worked as an officer of a company, PETERS COMPANY, INC. ("PCI"). On behalf of PCI, and at the direction of THOMAS JOSEPH PETERS, the owner and president of PCI, the defendant worked with another employee of PCI, ROBERT DEAN

FILED OCT 08 2008
RICHARD D. SLETEN, CLERK
JUDGMENT ENTD _____
DEPUTY CLERK _____



United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

WHITE, to fabricate documents used by PETERS and others to induce third parties to provide PCI with billions of dollars in loans.

The fabricated documentation purported to memorialize the purchase of merchandise by PCI from two supplier companies: NATIONWIDE INTERNATIONAL RESOURCES, INC. ("NIR"), run by LARRY REYNOLDS, and ENCHANTED FAMILY BUYING COMPANY ("EFBC"), run by MICHAEL CATAIN. PCI represented to the third-party lenders that PCI would then resell the merchandise it purchased from NIR and EFBC to big box retailers based on purchase orders purportedly received from these retailers. The transactions were fictitious and the documents were fabricated.

A substantial portion of the funds that were lent to PCI were secured by promissory notes, and in some instances by security agreements, that pledged as collateral either: (a) the merchandise that PCI purportedly had purchased from NIR and EFBC; and/or (b) accounts receivable for the fictitious purchase orders between PCI and the big box retailers. In many instances, lenders would wire the funds lent to PCI directly to NIR or EFBC based on representations made to the lenders by PETERS and PCI that the funds would be used to finance the merchandise purportedly purchased by PCI. In such cases, rather than provide PCI with merchandise, NIR and EFBC, at the direction of PETERS, would simply re-direct the funds to PCI less a commission. During the

United States v. Deanna Lynn Coleman, Crim No. 08-304(PAM)

course of the conspiracy, NIR and EFBC funneled tens of billions of dollars through their respective accounts in furtherance of the scheme. REYNOLDS and CATAIN were paid millions of dollars for the use of their respective company bank accounts to conceal the fraudulent nature of the transactions.

The current debt of PCI is more than \$3 billion, much of which was obtained through the fraudulent scheme over the course of more than 13 years.

Lenders oftentimes "rolled" their loan to PCI from one fraudulently obtained loan into another without repayment. To the extent payments were made by PCI to lenders, it was with funds derived from other victim lenders who were also fraudulently induced to fund the ponzi scheme.

For her efforts, the defendant received millions of dollars. The vast majority of the fraud proceeds went to PCI and PETERS, and were then used to fund the operations of other companies owned by PETERS, to pay others who assisted in the fraud scheme, and for PETERS' extravagant lifestyle.

As part of the scheme, the defendant knew that items would be sent, delivered, and moved by the United States Postal Service and interstate commercial carrier.

3. Waiver of Indictment. The defendant agrees to waive indictment by a grand jury on these charges and to consent to the

United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

filing of a criminal information. The defendant further agrees to execute a written waiver of her right to be indicted by a grand jury on this offense.

4. Waiver of Pretrial Motions. The defendant understands and agrees that she has certain rights to file pre-trial motions in this case. As part of this plea agreement, and based upon the concessions of the United States within this plea agreement, the defendant knowingly, willingly, and voluntarily gives up the right to file pre-trial motions in this case.

5. Statutory Penalties.

The parties agree that Count 1 of the Information carries statutory penalties of:

- a. a term of imprisonment of up to 5 years;
- b. a criminal fine of up to the greater of \$250,000.00 or twice the amount of gain or loss;
- c. a term of supervised release of up to three years;
- d. a special assessment of \$100.00, which is payable to the Clerk of Court prior to sentencing; and
- e. the costs of prosecution (as defined in 28 U.S.C. §§ 1918(b) and 1920).

6. Revocation of Supervised Release. The defendant understands that, if she were to violate any condition of

United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

supervised release, she could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

7. Guideline Calculations. The parties acknowledge that the defendant will be sentenced in accordance with 18 U.S.C. § 3551, et seq. The parties also acknowledge that the defendant will be sentenced in accordance with federal sentencing law which includes consideration of the Sentencing Guidelines promulgated pursuant to the Sentencing Reform Act of 1984. The parties recognize that although the Court must give considerable weight to the guidelines, the guidelines are no longer binding but simply advisory. The parties stipulate to the following guideline calculations:

- a. Base Offense Level. The parties agree that the base offense level for these offenses is 6. (U.S.S.G. § 2B1.1).
- b. Specific Offense Characteristics. The government contends that the offense level should be increased by 30 levels, because the loss is in excess of \$400 million. (U.S.S.G. § 2B1.1(b)(1)). The defendant reserves the right to argue the loss amount is less based on the value of assets available to repay the obligations. The parties agree that the offense level should be increased by 2 levels, because of the number of victims involved. (U.S.S.G. § 2B1.1(b)(2)).
- c. Acceptance of Responsibility. The government agrees to recommend that the defendant receive a 3-level reduction for acceptance of responsibility and to make any appropriate motions with the Court.

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However, the defendant understands and agrees that this recommendation is conditioned upon the following: (i) the defendant testifies truthfully during the change of plea hearing, (ii) the defendant cooperates with the Probation Office in the pre-sentence investigation, (iii) the defendant commits no further acts inconsistent with acceptance of responsibility, and (iv) the defendant complies with this agreement, fully identifies all assets and makes good faith efforts to make restitution to her victims. (U.S.S.G. §3E1.1). The parties agree that other than as provided for herein no other Chapter 3 adjustments apply.

- d. Criminal History Category. Based on information available at this time, the parties believe that the defendant's criminal history category is I. This does not constitute a stipulation, but a belief based on an assessment of the information currently known. Defendant's actual criminal history and related status will be determined by the Court based on the information presented in the Presentence Report and by the parties at the time of sentencing.
- e. Guideline Range. The guideline is 60 months due to the statutory maximum sentence. (U.S.S.G. § 5G1.1(a)).
- f. Fine Range. If the adjusted offense level is 35, the fine range is \$20,000.00 to \$200,000.00. (U.S.S.G. § 5E1.2(c)(3)).
- g. Supervised Release. The Sentencing Guidelines require a term of supervised release of between two and three years. (U.S.S.G. § 5D1.2).
- h. Departures and Sentencing Recommendations. The parties reserve the right to make motions for departures or variances from the applicable guideline.

United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

8. Discretion of the Court. The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determination regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable guidelines. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is different from that stated above, the parties may not withdraw from this agreement, and the defendant will be sentenced pursuant to the Court's determinations.

9. Special Assessments. The Guidelines require payment of a special assessment in the amount of \$100.00 for each felony count of which the defendant is convicted. U.S.S.G. § 5E1.3. The defendant agrees to pay the special assessment prior to sentencing.

10. Restitution. The defendant understands and agrees that the Mandatory Victim Restitution Act, 18 U.S.C. §3663A, applies and that the Court is required to order the defendant to make restitution to the victim of her crime.

The defendant represents that she will fully and completely disclose to the United States Attorney's Office the existence and

United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

location of any assets in which she has any right, title, or interest. The defendant agrees to assist the United States in identifying, locating, returning, and transferring assets for use in payment of restitution and fines ordered by the Court. The defendant represents that the financial statement to be provided to the United States Attorney's Office will be accurate, truthful and complete.

If requested by the United States, the defendant agrees to submit financial deposition and to a polygraph examination to determine whether she has truthfully disclosed the existence of all of her assets.

11. Forfeiture. The government reserves its right to proceed against any of the defendant's assets if said assets represent real or personal property involved in violations of the laws of the United States or are proceeds traceable to such property. The defendant agrees that all funds she received from PCI are proceeds of the fraud, and are, therefore, subject to forfeiture. The defendant asks that the government allow such proceeds to be used for restitution.

12. Cooperation. The defendant has agreed to cooperate with law enforcement authorities in the investigation and prosecution of other suspects. The defendant has provided information to law enforcement regarding the fraud and other participants, including

United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

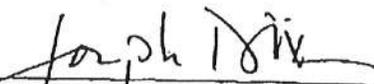
the owner and president of PCI. Specifically, the defendant notified the government of the ongoing fraud which precipitated the investigation. Prior to the defendant's contact, the government was unaware of the scheme. This cooperation includes, but is not limited to, being interviewed by law enforcement agents, submitting to a polygraph examination if the government deems it appropriate, and testifying truthfully at any trial or other proceeding involving other suspects. If the defendant cooperates fully and truthfully as required by this agreement and thereby renders substantial assistance to the government, the government will, at the time of sentencing, move for a downward departure under Guideline Section 5K1.1. The government also agrees to make the full extent of the defendant's cooperation known to the Court. The defendant understands that the government, not the Court, will decide whether the defendant has rendered substantial assistance. The government will exercise its discretion in good faith. The defendant also understands that there is no guarantee the Court will grant any such motion for a downward departure, and the defendant understands that the amount of any downward departure is within the Court's discretion. In the event the government does not make or the Court does not grant such a motion, the defendant may not withdraw this plea based upon that ground.

United States v. Deanna Lynn Coleman, Crim No. 08-304 (PAM)

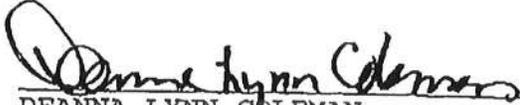
13. Complete Agreement. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date: *October 8, 2008*

FRANK J. MAGILL, JR.
United States Attorney

BY: 
JOSEPH T. DIXON, III
JOHN R. MARTI
TIMOTHY C. RANK
Assistant U.S. Attorneys

Date: *Oct 8, 2008*


DEANNA LYNN COLEMAN,
Defendant

Date: *Oct 8, 2008*


ALLAN CAPLAN
Counsel for Defendant

StarTribune.com



Petters trial: Betrayed trust, hidden recorders



Jim Freitag, Star Tribune

Courtroom illustration of Deanna Coleman

The intimate who told the feds about Tom Petters' business deals described the alleged fraud in court.

By DAVID PHELPS, Star Tribune

Last update: November 3, 2009 - 5:44 AM

In a federal courtroom Monday, Deanna Coleman recalled the day last year that she stepped into the office of her boss, Wayzata businessman Tom Petters, to discuss the growing pressure from his investors who

were sick of excuses and wanted to be repaid.

On that September afternoon, Petters had been on the phone looking to drum up new money to support his ever expanding need for cash.

"Otherwise we're going to sink," he told Coleman. "Aren't you sick of this?"

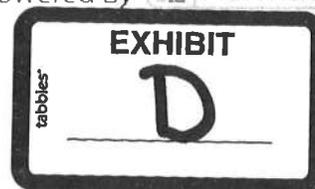
What Petters didn't know, however, was that Coleman was wearing recording devices provided by federal authorities. Earlier that day she had confessed to a decade-long scheme to deceive investors. Government prosecutors contend that Petters' business was a Ponzi scheme from the get-go.

In a subdued, matter-of-fact manner, the government's star witness told a packed courtroom Monday how she secretly recorded conversations with Petters and others for a couple of weeks after she walked into the U.S. attorney's office in Minneapolis on Sept. 8, 2008.

The 43-year-old Plymouth woman's allegations brought down Petters' business empire last fall when federal agents raided his home and headquarters along with other locations related to the alleged scheme. The

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revelations must have been a stinging rebuke coming from such a close confidante who, according to Assistant U.S. Attorney Joe Dixon, was once "intimate" with Petters.

Petters' defense asserts that Coleman spearheaded the Ponzi scheme. But under questioning from Dixon, Coleman insisted that almost all decisions were made by Petters in the alleged investment fraud scheme, which involved the creation of phony purchase orders and invoices to make it appear that Petters was using investors' money to buy consumer merchandise at a discount for resale at a profit.

In 2008, money was tight and there were several hedge funds asking about their investments. On the government recordings, Coleman sounds exasperated with the investors' persistent calls.

"I'm tired of it," she says at one point to Petters. "You can pick up the phone and lie as well as I can."

Longtime doubts

In testimony earlier Monday, Dyan Decker, a forensic accountant for PriceWaterhouseCoopers, read from a letter she had found on Coleman's computer.

In the letter to Petters, dated October 2004, Coleman said she was worried about the stability of Petters Co. Inc. (PCI), the engine that the government says was used to bilk investors of more than \$3.5 billion.

"You always promised we'd find a way out. And yes, I believed you," the letter said. "Now it's nonstop that I worry about going to prison. I've lost trust in you. All I see is a black hole at the end of the tunnel."

Prosecutors could use the letter to counter Petters' claim that Coleman and other associates ran a fraud scheme without his knowledge. But on cross-examination, Decker said that she couldn't say whether the letter was ever sent to Petters.

Coleman's testimony was punctuated by audio clips from the secretly recorded conversations with Petters. She said she wore two recording devices. One looked like a car key and the other was a square device that she put in her pocket, she said.

She testified that she once resisted a hug from Petters out of concern that he would discover the tape recorder that she was wearing on her back.

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In the first recording, Coleman's conversation with Petters was interrupted several times by phone calls.

Petters can be heard in the background sounding somewhat desperate as he tried to raise financing to satisfy anxious investors -- including Frank Vennes Jr., a longtime associate who was paid millions of dollars for referring investors to Petters. Vennes has not been charged in connection with the case.

At one point, Coleman asks Petters if Vennes knows that PCI used fake purchase orders to fool investors into believing that their money was secured with electronics merchandise. "No," Petters responded.

Petters can be heard saying that he needs to raise new money from hedge funds, "otherwise we're going to sink." One of his plans included an effort to sell half of Polaroid for \$1.5 billion.

Petters said despite his efforts to juggle the investors' demands, "All I've done is bought us some time."

Coleman testified that she routinely made up false purchase orders and that Robert White, the former chief financial officer of PCI,

routinely made up false invoices. Coleman and White have pleaded guilty in the alleged scheme.

A desperate scramble

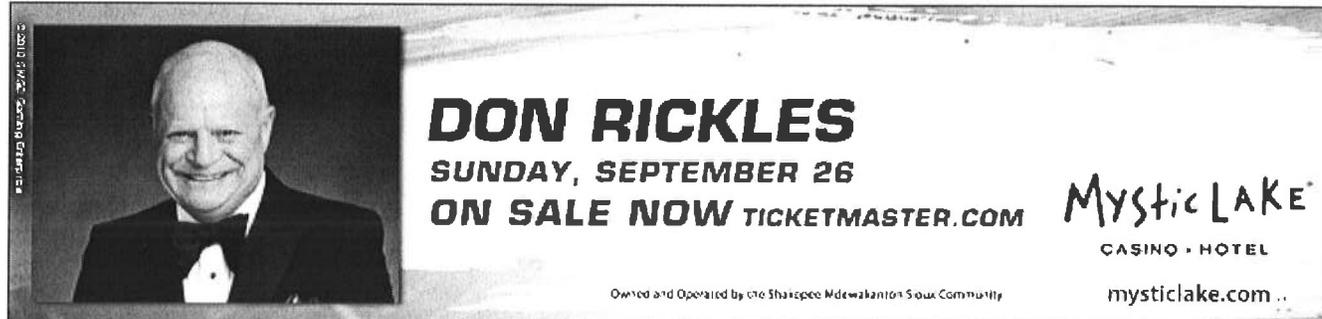
Coleman said the pressures intensified in spring and summer 2008. Dixon introduced e-mails between Coleman and Petters in which they frequently discussed where to raise money.

"Money was tight. A lot of investors had redemptions. We didn't have any new money coming in and didn't have any real deals," Coleman said.

She talked about a \$60 million investment in April 2008 from Interlachen Capital Group in Minneapolis and the "game plan" that she, Petters and Los Angeles business associate Larry Reynolds came up with to fend off their increasingly anxious creditor.

On one recording, the three were on a conference call in which they discussed a plan to tell Interlachen why some TVs they were trying to market through Costco hadn't been selling, and they talked about using an excuse that some TVs were being returned at unexpectedly high rates.

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Coleman said Petters actually used the money from Interlachen to pay other investors.

On the recording involving the Interlachen investment, Reynolds said: "I have one s tipulation. I will not work with Bob White. He scares the s--- out of me. I think he's an imbecile."

The investors apparently were closing in as Coleman made her decision to cooperate with federal authorities. On the tape Coleman made in Petters' office, they can be heard discussing their concerns about a Swiss hedge fund, Gottex Fund Management Holdings Ltd., which was seeking to audit Petters' books. Coleman said in court that Gottex wanted proof the merchandise securing its investment existed, "and we didn't have that stuff."

At one point in their conversation, Petters said that Harold Katz, an accounting executive with an Illinois hedge fund who has pleaded guilty to helping Petters fool investors, "looks like he's going to jump off the roof."

After Petters' arrest, that fund, Lancelot, filed for bankruptcy liquidation, claiming losses of \$1.5 billion on its PCI investments.

Petters' attorneys, Jon Hopeman and Paul Engh, contend that Petters was disengaged and any fraud that took place was the work of Coleman and others.

On the recording, Petters tried to reassure Coleman. "If worse came to worst, you would not go to jail," he said. "I'm sure I would."

Dixon, the prosecutor, and Coleman spent much of the afternoon in court going through long trails of e-mails that discussed the creation of purchase orders, invoices and other documents.

After introducing each new document, Dixon would ask, "Who made this?"

Coleman's reply: "I did."

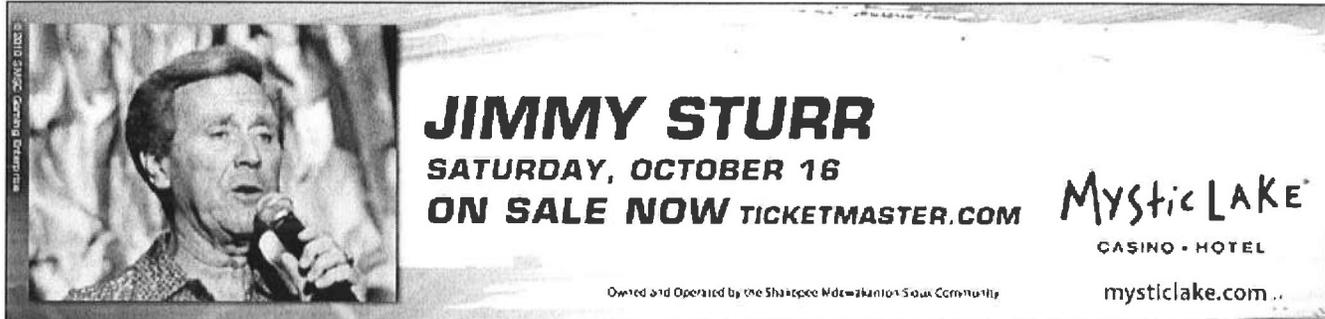
"Is it real?" asked Dixon.

"No," Coleman said.

Coleman's testimony continues today.

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ATTORNEYS AT LAW

JONATHAN S. FELDMAN
JFELDMAN@MELANDRUSSIN.COM

July 30, 2010

Honorable Judge Richard H. Kyle
316 North Robert Street
772 Federal Building
St. Paul, MN 55101

Re: Dianna Coleman

I am writing in connection with the upcoming sentencing hearing for Deanna Coleman.

I am bankruptcy and litigation counsel to Barry E. Mukamal. Mr. Mukamal is a forensic accountant and partner with the Marcum Rachlin accounting firm. In January 2010 Mr. Mukamal was appointed by the Office of the United States Trustee to serve as the Chapter 11 Trustee for two hedge funds: Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P. (collectively, the "*Palm Beach Entities*"). The Palm Beach Entities lost tremendous sums in the Thomas Petters related fraud and as a result are now debtors in bankruptcy proceedings pending in the Southern District of Florida.

The claims filed by the Palm Beach Entities in the *Petters* bankruptcy cases exceed \$1 billion. Mr. Mukamal's function is to maximize the value of these claims and in turn the distribution to creditors of the Palm Beach Entities. In that regard, Mr. Mukamal and my firm are investigating a number of potential litigation claims against third parties under various legal theories.

During the week of July 11th, 2010, I traveled from Miami to Minneapolis to meet with a number of witnesses, including Ms. Coleman for almost a full day.



Meland Russin & Budwick, P.A.

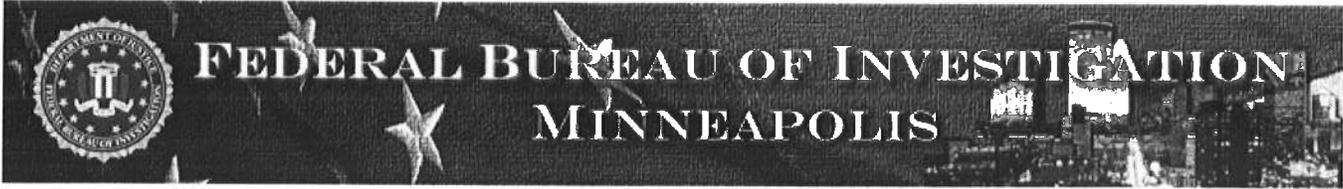


During the meeting, I found Ms. Coleman to be cooperative; she answered my questions in what appeared to be an open and forthright manner.

Regards,

A handwritten signature in blue ink, appearing to read 'Jonathan S. Feldman' with a stylized flourish at the end.

Jonathan S. Feldman



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Department of Justice Press Release

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For Immediate Release
June 8, 2010

United States Attorney's Office
District of Minnesota
Contact: (612) 664-5600

Territory/Jurisdiction

About Us

- Our People & Capabilities
- What We Investigate
- Our Partnerships
- Minneapolis History

Federal Agents Honored by U.S. Attorney for Investigating Largest Financial Crime in Minnesota History

Earlier this year, Thomas Joseph Petters was sentenced to 50 years in federal prison for orchestrating a \$3.7 billion Ponzi scheme through which he bilked countless individuals, companies, and organizations out of money. Petters' actions amounted to the largest financial crime in state history, and his prison sentence serves as the longest ever imposed in Minnesota for financial fraud.

Press Room

Wanted by the FBI - Minneapolis

The Petters case was the result of a lengthy investigation by federal agents, in particular, Special Agents Brian Kinney and Eileen Rice and Forensic Accountant Josiah Lamb of the Federal Bureau of Investigation and Kathy Klug of the Internal Revenue Service-Criminal Investigation Division. In appreciation for their tireless investigative efforts over a period of almost two years, U.S. Attorney B. Todd Jones honored them earlier today by awarding them with the 11th annual U.S. Attorney's Office Law Enforcement Recognition Award.

In Your Community

FBI Jobs

"Financial fraud is an insidious crime, which is particularly painful during these tough economic times. We in federal law enforcement owe it to our neighbors, many of whom are struggling to make ends meet, to pursue with vigor those who attempt to enrich themselves personally by cheating people and organizations out of hard-earned dollars. These agents did just that, and we all are extremely grateful for their tremendous effort."

Main FBI Website

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The U.S. Attorney's Office Law Enforcement Award is presented annually to a local, state, or federal law enforcement agent, officer, or investigative team that has performed outstandingly on a significant federal case or on a series of cases. In addition, the recipient or recipients must exemplify the cooperative spirit Minnesotans have come to expect from local, State, and federal law enforcement. At today's ceremony, Ralph S. Boelter, Special Agent in Charge of the FBI's Minneapolis Field Office, said, "This award brings to light the collaborative effort needed to successfully combat complex criminal investigations of the size and scope of the Petters's case. Two outstanding FBI agents with 34 years of collective investigative experience and a talented FBI forensic accountant with years of practical accounting experience worked seamlessly with a top-notch IRS agent and skilled prosecutors. I could not be more proud of these dedicated FBI employees and of this team as a whole."

Following a month-long trial, Petters was convicted on December 2, 2009, of 10 counts of wire fraud, three counts of mail fraud, one count of conspiracy to commit mail and wire fraud, one count of conspiracy to commit money laundering, and five counts of money laundering. According to the evidence presented at trial, Petters, assisted by others, defrauded and obtained billions of dollars in money and property by inducing investors to provide Petters Company, Inc., with funds to purchase merchandise to be resold to retailers at a profit. However, no such purchases were made. Instead, Petters and his co-conspirators diverted the funds provided them for other purposes, such as paying off those who assisted in the fraud scheme, funding businesses owned or controlled by the Petters, and financing Tom Petters's extravagant lifestyle.

Special Agent Eileen Rice has been a special agent with the FBI for more than 21 years. She has worked in the Minneapolis Division for the last 10 years, having served previously in the Los Angeles Field Office. She has worked white collar crime matters her entire career, specializing in public corruption and fraud investigations. Rice earned a bachelor's degree in communication arts from the University of Wisconsin in 1983 and a master's degree from Pepperdine University in 1996. Before becoming an FBI agent in 1989, she worked in the banking industry in Phoenix.

Special Agent Brian Kinney has been a special agent with the FBI for more than 13 years, all in the Minneapolis Division. He has worked predominately white-collar crime cases. Kinney earned a bachelor's degree in business administration from Azusa Pacific University in 1983 and Contracting Administration Certification from the University of California, Irvine. Prior to becoming an FBI agent, he worked contract issues in the aerospace engineering field in Southern California.

Forensic Accountant Josiah Lamb has been with the FBI's Minneapolis Division for almost four years. Thus far, his career has focused on white-collar crime matters. Lamb earned a bachelor's degree in accounting from Carthage College in 2001 and a law degree from Hamline University in 2009. He has CPA and CFE certifications and worked as an accountant and in a SEC reporting role for five years before joining the FBI in 2006.

Special Agent Kathy Klug, of the IRS, has more than 27 years of law enforcement experience. Since September of 1993, she has been a special agent with the IRS-Criminal Investigation Division and has worked tax fraud, money laundering, narcotics, mortgage fraud, investment fraud, and embezzlement investigations. For a two-year period, she also was a supervisory special agent. Klug previously served 11 years in the U.S. Army. As a chief warrant officer and special agent with the U.S. Army-Criminal Investigation Division, she investigated crimes against persons and property as well as defense contract fraud cases. For a four-year period, she managed, led, and directed global security details for the Secretary of Defense, Chairman of the Joints Chief of Staff, Secretary of the Army, and other senior Pentagon officers and officials. Klug earned a Bachelor of Arts degree from Western Michigan University, where she majored in accounting.



Following today's award ceremony, Julio La Rosa, Special Agent in Charge of the IRS Criminal Investigation Division's St. Paul Field Office, said, "Special Agent Kathy Klug embodies all that the public should expect in a law enforcement officer and public servant. She is a shining example of what our criminal investigation special agents bring to the table on financial fraud investigations. Her professionalism and investigative skills were essential to proving the case against Mr. Petters, and Kathy is truly deserving of this award."

The award ceremony, which took place at the U.S. Attorney's Office in Minneapolis, was attended by the award recipients, their families, and friends, along with their law enforcement colleagues.

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Los Angeles Times | ARTICLE COLLECTIONS

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Gotti Accuser Sentenced to Five Years in Plea Deal

Mafia: Salvatore Gravano is rewarded for testifying against the notorious Gambino Family boss and other organized crime figures.

September 27, 1994 | JOHN J. GOLDMAN, TIMES STAFF WRITER

NEW YORK — Salvatore (Sammy the Bull) Gravano, described by prosecutors as "the most significant witness in the history of organized crime in the United States" and whose testimony played a decisive role in incarcerating Mafia chieftain John Gotti for life, was sentenced Monday to five years in prison—even though he was implicated in 19 murders.

The sentence imposed by federal Judge I. Leo Glasser, who presided at Gotti's trial in 1992 for racketeering and murder, means that counting time already served and credit for good behavior Gravano could be free in five months. He will remain in the federal witness protection program.

"There has never been so important a defendant in organized crime who has made the leap from one social planet to another," Glasser said before imposing sentence. "His stature in organized crime is so unique. His unprecedented decision to cooperate encouraged others to cooperate."

Prosecutors and federal agents urged a highly lenient sentence for Gravano, who not only helped destroy the nation's best-known organized crime boss, but whose testimony at six subsequent trials helped convict 36 other Mafia figures. His cooperation is continuing, prosecutors said, and he has created a "domino effect" of other informants coming forth.

"He has rendered extraordinary, unprecedented, historic assistance to the government," Assistant U.S. Atty. John Gleeson, a key member of the team that prosecuted Gotti, told Glasser in federal court in Brooklyn.

"Gravano has been the most significant witness in the history of organized crime in the United States. Part of the reason he has been so valuable is the position he occupied before he chose to cooperate," Gleeson and other prosecutors said in a memorandum they submitted to the judge. "As the under boss of the Gambino



Family of La Cosa Nostra, Gravano participated in or otherwise obtained knowledge of a truly astounding array of criminal activity.

"Simply put, Gravano's cooperation has been the signal event in the government's decades-long fight against the Mafia."

When he decided to turn government witness, Gravano--who was indicted with Gotti--was spirited at night from his cell to a safehouse. He pleaded guilty to racketeering charges that could have carried a maximum term of 20 years in prison and a \$250,000 fine.

When he first approached the government about a deal, prosecutors were fearful it was a trap. But the conscientiousness of his cooperation and the quality of the information he provided quickly erased any doubts.

Gravano's defection was a devastating blow for Gotti, who had escaped conviction at three previous trials, earning a reputation as the "Teflon Don." After Gravano's testimony, Gotti was found guilty of five murders--including masterminding the assassination of his predecessor, Paul Castellano, as head of the Gambino crime family, the most important of New York City's five Mafia organizations.

Gravano told of sitting in a car in mid-town Manhattan with Gotti as a team of hit men gunned down Castellano and an associate. Gotti and Gravano then drove slowly past their bloody bodies on the street.

Gleeson told Glasser that Gravano's testimony was so helpful that prosecutors, who earlier had introduced tape recordings of Gotti discussing major crimes, made a key decision.

"When Salvatore Gravano got off the stand, it was the prosecution team's judgment we should end the trial quickly because he was such an effective witness," Gleeson said.

The government said in its memorandum: "Gravano was of such a stature in that environment that his decision to cooperate has caused some members of organized crime to believe that there must be something wrong with the Mafia.

" . . . The list of defectors from organized crime since November, 1991, when Gravano began cooperating, is striking: In the Colombo Family alone, 10 people, including the *consigliere* and two captains, have cooperated; there are three significant new witnesses from the Luchese Family, including its under boss. Many of these witnesses had known Gravano personally, and his defection to the government helped to pave the way for their decision to cooperate."

Gravano, 49, earned his nickname because of his compact, muscular stature and his considerable ability with his fists.

Gravano, dressed conservatively in a dark suit, had little to say during his sentencing. He declined to address Glasser.

The judge said that while Gravano was accused of 19 murders, he had only actually committed one killing. Glasser said that Gravano would face the risk of retribution by the mob for the rest of his life.

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November 24, 1991

Section: LOCAL

**NORIEGA TRIAL AIDS CRIMINALS TRAFFICKERS PROFIT FROM TESTIMONY
DEALS**

WARREN RICHEY, Staff Writer

Federal prosecutors working to convict Manuel Antonio Noriega have been engaged in a massive legal version of Let's Make a Deal, offering generous benefits to drug traffickers and other criminals willing to testify against him.

Some of the deals guarantee that convicted traffickers -- some who have confessed to much greater involvement in the drug trade than Noriega is accused of -- will be back on the streets early.

For example, in exchange for the cooperation of four key witnesses, the government has dropped three life terms with no parole and a collective 546 years in prison sentences. Two of the men are already free.

In addition to reduced prison terms and immunity from further prosecution, prosecutors have offered new identities, government stipends, cash rewards and even U.S. residency and work papers for witnesses and their families.

The full extent of the backroom deals offered by the U.S. Attorney's Office and approved by the Justice Department only now is becoming clear, with what seems a never-ending parade of convicts and admitted criminals taking the stand in the Noriega trial.

Among deals made:

--Star witness Floyd Carlton, whose grand jury testimony provided the backbone of the Noriega indictment in 1988, faced life in prison with no parole plus 145 years for flying cocaine into the United States. In exchange for his cooperation, he was released last December after three years in prison.

Prosecutors allowed him to transfer his drug-related assets from Panama to the United States with no risk of forfeiture or charges for unpaid taxes. The government paid \$211,000 to support his wife, their three children and a nanny and granted them permanent U.S. residency and work permits.



--Ricardo Bilonick, a Panamanian businessman who made \$47 million in three years as a drug trafficker, faced 50 years in prison. He was allowed to keep \$3.9 million in drug-related assets in exchange for his guilty plea, a recommended sentence of 10 years or less and a pledge to testify against Noriega. The government also agreed not to seek payment of millions of dollars in unpaid U.S. taxes. There is no indication in the agreement whether prosecutors investigated claims by the businessman that \$44 million of his drug profits had been lost in recent years in bad business deals.

--Roberto Striedinger, a Colombian pilot who flew a load of cocaine in 1984 in the Noriega case, was allowed to plead guilty and face a recommended sentence of 10 years or less. At the time he was arrested in 1990, prosecutors said the pilot had risen in the ranks of the cartel and had become its "No. 1 man in the United States." Instead of pursuing a major new indictment based on crimes Striedinger committed since 1984, prosecutors promised him immunity from further prosecution.

Prosecutors seized Striedinger's \$4 million home on Key Biscayne, but they allowed him to keep all of his bank accounts, his Mercedes-Benz, his 40-foot yacht and companion speedboat, and his airplane. They even gave him back two AK-47 assault rifles, an Uzi and MAC-10 submachine guns.

--Steven Kalish, who admitted to smuggling 1.5 million pounds of marijuana and more than 2,000 pounds of cocaine into the country, faced life in prison with no parole plus 285 years. As a result of his cooperation against Noriega and others, his sentence was reduced to nine years. He is to be released in June 1993.

As a further sweetener, the government allowed Kalish to keep \$1 million in drug proceeds to help pay back taxes and legal bills, and to support his family. He expects that when he walks out of prison he will have at least a \$500,000 nest egg of drug proceeds in the bank.

--Former Davie resident Max Mermelstein helped smuggle 111,000 pounds of cocaine into South Florida and faced life in prison plus 90 years. Instead, he agreed to cooperate against Noriega and others. He spent two years in prison and has since been paid \$250,000. In addition, U.S. taxpayers paid \$414,000 to support Mermelstein's wife, two children and four members of his extended family.

Deals with witnesses are not unusual in drug conspiracy and racketeering cases, legal experts say. Indeed, they stress that prosecutors would be unable to convict major participants in drug schemes without the cooperation of their former criminal associates.

What is unusual, those experts say, is the large number of generous deals offered in the Noriega case.

The deals are raising questions about whether the public interest is being served by prosecutors willing to excuse the illegal conduct of many significant criminals to bolster the case against Noriega. If convicted, he faces up to 140 years in prison.

Last month, a federal judge in Kansas City, frustrated by procedural rules that prevented him from slightly reducing a defendant's five-year sentence, criticized the deals in the Noriega case as "obscene."

Professor Richard J. Wilson of American University Law School in Washington says they are unprecedented.

“I don’t think there has been anything anywhere of this dimension, even in organized-crime trials,” Wilson said. “In this case, it seems that there is an effort to get to the highest possible witness and a willingness to pay the highest possible price for testimony.”

So far, 17 of the 29 prosecution witnesses have been offered deals by the government.

To Noriega attorney Frank Rubino, the government’s ability to offer inducements to witnesses presents a formidable challenge. And an opportunity.

One of Rubino’s defense strategies has been to try to undermine the credibility of the government’s strongest witnesses by suggesting that they may be stretching the truth to please prosecutors who have bought and paid for their testimony.

“You had to trade some things for all this good stuff they gave you?” Rubino asked Carlton while questioning him about his plea agreement. The remark drew a government objection and Carlton was not required to answer.

But Rubino forged ahead during cross-examination, portraying Carlton as a man who used his criminal career to his own advantage once he had been caught by offering to tell prosecutors what they wanted to hear about Noriega.

Ultimately, it will be up to the 12 members of the jury to decide which of the witnesses are telling the truth and which, if any, may have embellished their testimony to win lighter sentences.

Noriega’s defense team is hoping that the jurors reject much of the deal-induced testimony.

They also are hoping that the jurors -- all residents of crime-plagued Dade County -- will be outraged at the extent of the deals offered in exchange for testimony.

The list of convicts who have lined up for Noriega-related deals includes Carlos Lehder, the most significant Colombian drug trafficker ever convicted in a U.S. court. Prosecutors have agreed to recommend that Lehder’s life sentence be reduced in exchange for his testimony against Noriega.

The arrangement is in stark contrast to the government’s view of Lehder in 1988. At that time, prosecutors told Lehder’s jury in Jacksonville that he considered cocaine a revolutionary weapon to be used against the United States.

Lehder was “still at war” with the United States, they warned. “The evidence in this case shows a trail of bribery, corruption, violence and personal debasement that has been created and fostered by Mr. Lehder,” the prosecutor told jurors.

Three years later, prosecutors in Miami have forged an alliance with Lehder, because now it is Noriega who is Public Enemy No. 1.

``LET'S MAKE A DEAL``

How smoe of those who have testified against Manuel Antonio Noriega have fared in their agreements with U.S. prosecutors. All have charged with drug- related offenses:

WITNESS

-- Jose Cabrera, 62, former major Colombian drug trafficker.

SENTENCE: Convicted in cases unrelated to Noriega and sentenced to 30 years.

ACTION: Testimony against Noriega.

OUTCOME: Prosecutors agreed to recommend his sentence be reduced to less than 15 years.

-- Cesar Cura, 52, former Colombian drug trafficker Convicted in cases unrelated to Noriega.

SENTENCE: Faced life in prison plus 75 years in addidton to existing 40- year term.

ACTION: Testimony against Noriega.

OUTCOME: Life term plus 75 years to 20 years or less.

--Luis del Cid, 47, former Noriega bodyguard and confidant.

SENTENCE: Faced 70 years in prison as co-defendant

ACTION: Pleaded guilty in 1990; agreed to testify against Noriega.

OUTCOME: Elected to receive three-year term.

--David Rodrigo Ortiz, 35, former cartel drug pilot.

SENTENCE: Serving 14 years in French prison; faced 40 years in Noriega case.

ACTION: Testimony against Noriega.

OUTCOME: Prosecutors to recommend sentence of 10 years or less, concurrent with French term.

--Gabriel Taboada, 35, former Colombian drug smuggler.

SENTENCE: Sentenced to 21 years with no parole; case unrelated to Noriega.

ACTION: Testimony against Noriega.

OUTCOME: Government to recommend reduced sentence.

--Eduardo Pardo, 46 flew drug money from U.S.

SENTENCE: Faced five years in Noriega case.

ACTION: Pleaded guilty

OUTCOME: Served 18 months

--Enrique Pretelt, 49, former Noriega business partner.

SENTENCE: Faced 15-year sentence in Tampa.

ACTION: Cooperation and testimony in Tampa and Miami indictments.

OUTCOME: Prosecutors recommend 10 years or less.

--Carlos Lehder, 42, a Medellin cartel leader.

SENTENCE: Serving life plus 135 years in a case unrelated to Noriega.

ACTION: Testimony against Noriega.

OUTCOME: Government to recommend reduced sentence.

---Compiled by/WARREN RICHEY

---- INDEX REFERENCES ----

COMPANY: NORIEGA

NEWS SUBJECT: (Corporate Financial Data (1XO59); Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05))

INDUSTRY: (Smuggling & Illegal Trade (1SM35))

REGION: (Colombia (1CO48); USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39); South America (1SO03); Latin America (1LA15))

Language: EN

OTHER INDEXING: (AMERICAN UNIVERSITY LAW SCHOOL; DAVIE; JUSTICE DEPARTMENT; LUIS; MEDILLIN; NORIEGA; WARREN; WITNESS) (Carlos Lehder; Carlton; Cesar Cura; David Rodrigo Ortiz; Eduardo Pardo; Enrique Pretelt; Floyd Carlton; Frank Rubino; Gabriel Taboada; Jose Cabrera; Kalish; Lehder; Manuel Antonio; Max Mermelstein; Mermelstein; NORIEGA TRIAL AIDS CRIMINALS TRAFFICKERS PROFIT; Ricardo Bilonick; Richard J. Wilson; Roberto Striedinger; Rubino; Steven Kalish; Striedinger; Ultimately; Wilson)

KEYWORDS: NORIEGA TRIAL; TESTIMONY; PROFILE JOSE CABRERA; PROFILE CESAR; CURA; PROFILE LUIS DEL CID; PROFILE DAVID RODRIGO ORTIZ PROFILE; GABRIEL TABOADA; PROFILE EDUARDO PARDO; PROFILE ENRIQUE PRETEL; PROFILE CARLOS LEHDER; AGE; SENTENCE PLEA BARGAIN; LISTING

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Word Count: 1894

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One Man's Word Against World's Most Dangerous Cocaine Cartel

July 06, 1987 | KIM MURPHY, Times Staff Writer

To his neighbors, Max Mermelstein was an engineer and a businessman, a husband and father, a man who lived quietly and comfortably in a secluded suburban ranch house in Florida's Broward County on the \$30,000 a year he earned in consulting fees.

To the U.S. government, Mermelstein was an international cocaine distributor responsible for importing \$360 million worth of the drug into Florida and Los Angeles, a man who knew book and chapter on at least five bloody killings, a man who, for seven years, had acted as one of the primary operations chiefs in the United States for Colombia's largest cocaine cartel.

The law caught up with Mermelstein on June 5, 1985, when FBI agents in Florida surrounded his Jaguar, arrested him, grabbed the loaded .22-caliber Walther from the seat next to him and then went to his home where they seized \$250,000 in cash, 25 guns and an array of ammunition.

Under indictment in Los Angeles for cocaine trafficking and facing a near-certain conviction and a life sentence in federal prison, Mermelstein turned government witness against the infamous Medellin cocaine cartel and took his family with him into hiding.

In the months since, the man, who was described by his attorney as "just a nice Jewish guy who got into the wrong industry," has emerged as the most important witness in the nation against what law enforcement officials say is the most dangerous criminal organization in the world.

"He is probably the single most valuable government witness in drug matters in the country today. I don't think it's possible to overstate the significance of his testimony," said James P. Walsh, head of the major narcotics section for the U.S. attorney's office in Los Angeles.

In the months since he began appearing as a government witness, Mermelstein has given testimony to grand juries in New Orleans, Miami and Los Angeles. His accounts have led to indictments--and some convictions--of some of the most elusive and powerful drug lords in the world and their lieutenants, the men who



operate the cartel in Medellin, Colombia, that is believed responsible for 75% of the cocaine that is shipped into the United States.

One Man's Word Against World's Most Dangerous Cocaine Cartel

July 06, 1987 | KIM MURPHY, Times Staff Writer
(Page 2 of 5)

As a direct result of Mermelstein's testimony, indictments have been returned against Fabio Ochoa Vasquez, believed to be head of the Ochoa family's operations in Medellin; Pablo Escobar Gaviria, a former Colombian senator who heads the Gaviria drug family, and Rafael Cardona Salazar, the elusive drug kingpin who reportedly headed the cartel's operations in the United States.

Together, the Medellin cartel families are believed to gross an estimated \$7 billion a year in the United States. They are also responsible for a rampage of murder and intimidation in their native Colombia, where judges seeking to combat cocaine trafficking have been killed at the rate of one a month and crusading journalists, police officers and even top-level justice ministers have fallen victim to assassins' bullets.

"It is no longer a question of threats, but of death notification," a Colombian newspaper editor said recently.

While nearly all of the cartel's kingpins have escaped extradition on U.S. indictments, authorities say Mermelstein is capable of providing "firsthand" testimony against them should they ever fall into U.S. hands.

In addition to his testimony against top cartel leaders, Mermelstein has provided evidence to local authorities investigating the 1979 shootings at a Miami shopping mall of a suspected drug dealer, his bodyguard and two bystanders that became known as the Dadeland Massacre.

Mermelstein also warned U.S. officials of a Medellin cartel contract to murder government witness Barry Seal and helped convict the three Colombian nationals arrested when Seal's bullet-riddled body was found outside a Baton Rouge, La., halfway house. Seal had testified in 1985 against a number of top Medellin cartel leaders, including Jorge Ochoa Vasquez.

"Mermelstein is unbelievable as a witness," said Al Winters, a New Orleans federal prosecutor. "I don't know how to express it in any way other than to say I've been doing this for a long time, and he's as good a witness, both in recall and

quality of information, as I've ever run into. His connections within the Medellin cartel are the highest."

Mermelstein, who had told law enforcement authorities the essential terms of the contract on Seal's life--\$500,000 dead in the United States, \$1 million alive in Colombia--later helped investigators identify the murder weapon.

One Man's Word Against World's Most Dangerous Cocaine Cartel

July 06, 1987|KIM MURPHY, Times Staff Writer
(Page 3 of 5)

"We had a murder weapon, but we didn't know where it came from," Winters said of the fully automatic Mac-10 rifle recovered near the scene with its serial number drilled out.

"I asked him (Mermelstein) about the weapon, and he began questioning me, and all of a sudden, he's hitting on all fours, you know? Like, did it have a drilled serial number? He said, 'Not only can I identify it, the weapon was test fired at my house in Florida.' "

Agents went back to the room in Mermelstein's home where he said the test firing occurred and dug bullets out of the wall that matched perfectly the bullets that killed Seal.

In another case, Mermelstein qualified last month as an expert witness on the Medellin cartel and testified against former Medellin City Councilman Javier Castano Ochoa and eight other defendants in a Miami drug case dubbed Operation Goldmine.

Translated Scrawl

In that case, Mermelstein was able to take ledgers written in shorthand unique to the cartel and translate the confusing scrawl into evidence of cocaine sales approaching 2,957 kilos, worth \$56 million, said Richard Gregorie, chief assistant U.S. attorney in Miami.

Defense lawyers who have come up against Mermelstein so far credit his smoothness and apparent knowledge but question his reliability.

"I think you have to say, even if grudgingly, that he has performed well as a government witness, and they're going to use him every chance they get," said

Neil Sonnett, a lawyer who cross-examined Mermelstein last month in a cocaine money-laundering case in Miami.

"But my guess is that he, like most people in his position, is probably given to great fits of exaggeration. There's always a potential danger in using people like that who have an overwhelming incentive to say whatever they think will best serve their purposes, and that means to lie," Sonnett said.

Series of Jobs

Mermelstein went straight to work as an engineer after his graduation from New York City Community College in 1963, taking a series of jobs as plant manager for major hotels and corporations in Puerto Rico, the Bahamas, Miami and Atlantic City.

Along the way, he married a Colombian woman. He took on the care of her three children and became fluent in Spanish.

But it was not until Christmas Eve of 1978 that he left behind much of his previous life and stepped over into the drug world, according to attorneys who have interviewed him since his arrest.

One Man's Word Against World's Most Dangerous Cocaine Cartel

July 06, 1987|KIM MURPHY, Times Staff Writer
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That night in Puerto Rico, a high-level cocaine distributor with whom Mermelstein had become acquainted asked Mermelstein to give him and a stranger a ride. The men began arguing, and Mermelstein's friend pulled out a gun and shot the stranger. "Max figures he's about to get killed, and he's informed, you now work for me," said one attorney, who asked not to be identified. "In the drug trade, they don't have a very good retirement program."

Drop Points

Federal prosecutors say Mermelstein became more and more involved with the cartel, working directly under Rafael Cardona Salazar, who reported to Jorge Ochoa in Medellin. He was responsible for working out the logistics of drug shipments to the United States, arranging flights, locating drop points, scheduling deliveries.

Between 1978 and his arrest in 1985, according to Gregorie, he had arranged for the delivery of an estimated 55 tons of cocaine, worth \$360 million.

Federal prosecutors say it was the investigation into auto maker John Z. DeLorean's alleged cocaine-dealing activities--charges on which he was ultimately acquitted--that led them to Mermelstein. Los Angeles prosecutor Walsh said Mermelstein for years had been involved with one of the men DeLorean was accused of dealing with.

The Los Angeles indictment charged Mermelstein with supervising a massive cocaine importing and distributing conspiracy, a charge that carries a potential penalty of life in prison without parole.

Potential Sentence

In Walsh's mind, it was the potential sentence Mermelstein was facing that prompted him to plead guilty to lesser cocaine possession and conspiracy charges and begin cooperating with the government.

"In the language of 'The Godfather,' we made him an offer he couldn't refuse," Walsh said.

But Fred Friedman, a former assistant U.S. attorney who prosecuted Mermelstein in Los Angeles, and Mermelstein's own attorney, Tom Johnston, think there was more at work.

"When they arrested him, he was driving his Jaguar, and it was like something out of 'Miami Vice,' " Friedman said. "The agents surrounded him, and they said it seemed like he had known that he was being surveilled the previous week, and it almost appeared to them like there was a sigh of relief, like he knew it had to happen.

"You know, Max is a smart guy, and a thug, and maybe he wanted to make amends."

Johnston said he argued vigorously against Mermelstein's decision to cooperate with prosecutors, pointing out the danger to both him and his family.

One Man's Word Against World's Most Dangerous Cocaine Cartel

July 06, 1987|KIM MURPHY, Times Staff Writer
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Since then, he said, Mermelstein has been in various federal prisons and 16 family members have gone into hiding under the federal witness protection program. Mermelstein's brother-in-law, a journeyman welder, grew increasingly

despondent while in seclusion and committed suicide over the Thanksgiving holiday, Johnston said.

Court Appearance

Last week, in a federal courtroom in Los Angeles, law enforcement agents and prosecutors from across the country appeared for Mermelstein's final sentencing, arguing in his behalf before a federal judge known for his toughness on drug offenders.

In an unexpected move, U.S. District Judge James M. Ideman ordered him released on the two years he has served in prison since his arrest, declaring that he was sending "a message to Medellin, Colombia."

"I'd like to see the country get the best mileage it can out of Mr. Mermelstein," the judge added.

Walsh, who had argued for a 10-year sentence, was originally incensed.

"At the time, I thought it was unduly generous," he said last week, a few days after the sentencing. "I've had time in the last few days to think about it, and I think the judge made the right move."

"He has become a weapon for the government," Johnston said, "and he will spend the rest of his life in fear for it. He'll never have a favorite restaurant or a neighborhood bar. He can't be seen twice in the same place."

For the Record

Los Angeles Times Tuesday July 7, 1987 Home Edition Part 1 Page 2 Column 1
Metro Desk 2 inches; 41 words Type of Material: Correction

On Monday, The Times quoted former Los Angeles prosecutor Fred Friedman as saying Max Mermelstein was "a smart guy, and a thug," who had begun cooperating with the government to "make amends." Friedman actually said the former international cocaine distributor was "a smart guy, not a thug."

StarTribune.com



Feds allege Lakeville man ran \$80 million Ponzi scheme

Corey N. Johnston is accused of defrauding 17 lenders by selling the same loans to multiple parties.

By **ABBY SIMONS**, Star Tribune

Last update: August 6, 2010 - 9:22 PM

A Lakeville man was charged Friday in U.S. District Court with operating a Ponzi scheme to steal nearly \$80 million from 17 banks and other lenders.

Corey N. Johnston, 40, was charged with one count each of bank fraud and filing a false income tax return in connection with the scheme, which federal authorities say he ran from 2005 through March 2009. A phone message left for Johnston was not immediately returned. It could not be determined if he has an attorney.

The charges accuse Johnston of overselling participation in large commercial and personal loans he arranged through his company, First United Funding. Loan participation is a common practice in which a bank buys a loan or part of it from another lender.

Authorities say Johnston knowingly sold loans he'd already sold to other institutions, making it impossible for all the participating banks to be repaid.

In one case, according to the charges, Johnston, through First United, lent \$7 million to White Out Way Investments, then sold 100 percent of the loan to two banks, and portions of it totaling \$10 million to four others. Altogether, he allegedly accepted \$23.65 million from six banks for the same \$7 million loan.

Johnston reportedly used some of the fraudulent gains to repay other loans to keep the scheme going and spent some on himself and his family. The charges say his 2005 tax return reported income of \$383,241 and failed to report an additional \$1.36 million he used to build and improve a Lakeville home.

As a result, he owes the federal government more than \$500,000 in taxes, the charges say.

If convicted, Johnston faces up to 30 years in prison on the bank fraud charge and three years on the tax charge. The FBI, IRS and Federal Deposit Insurance Corporation joined in the investigation.

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January 28, 2009

Troubled Times Bring Mini-Madoffs to Light

By LESLIE WAYNE

Their names lack the Dickensian flair of Bernie Madoff, and the money they apparently stole from investors was a small fraction of the \$50 billion that Mr. Madoff allegedly lost of his clients' savings.

But the number of other people who have been caught running Ponzi schemes in recent weeks is adding up quickly, so much so that they have earned themselves a nickname: mini-Madoffs.

Some of these schemes have been operating for years, and others are of more recent vintage. But what is causing them to surface now appears to be a combination of a deteriorating economy and heightened skepticism about outsize returns after the revelations about Mr. Madoff. That can scare off new clients and cause longtime investors to demand their money back, which brings the charade tumbling down.

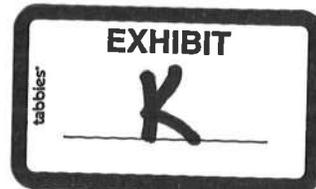
"There is no way for a Ponzi to survive given the large number of redemptions and a lack of new investors," said Stephen J. Obie, the head of enforcement at the Commodity Futures Trading Commission. The agency has experienced a doubling of reported leads to possible Ponzi schemes in the last year, and its enforcement caseload has risen this year.

On Monday, at a suburban New York train station, Nicholas Cosmo surrendered to federal authorities in connection with a suspected \$380 million Ponzi scheme, in which investors paid a minimum of \$20,000 for high-yield "private bridge" loans that he had arranged.

Mr. Cosmo promised returns of 48 percent to 80 percent a year, and none of his investors apparently minded — or knew — that Mr. Cosmo had already been imprisoned for securities fraud. In the end, 1,500 people gave him their money, often through brokers who worked on his behalf.

And in Florida, not far from the Palm Beach clubs where Mr. Madoff wooed some of his investors, George L. Theodule, a Haitian immigrant and professed "man of God," promised churchgoers in a Haitian-American community that he could double their money within 90 days.

He accepted only cash, and despite the too-good-to-be-true sales pitch, he found plenty of investors willing to turn over tens of thousands of dollars.



"The offices were beautiful, and I was told it was a limited liability corporation," said Reggie Roseme, a deliveryman in Wellington, Fla., who lost his entire savings of \$35,000 and now faces foreclosure on his home.

According to federal regulators who have accused him of operating a Ponzi scheme, Mr. Theodule bilked thousands of investors of modest means, like Mr. Roseme, out of \$23 million in all, and put \$4 million in his own pocket. This money helped pay for two luxury vehicles for Mr. Theodule, a wedding, a lavish house in Georgia and a recent trip to Zurich that federal authorities are now investigating. The fate of the other \$19 million is still unknown.

Investors in Idaho say they lost \$100 million in a scheme that promised 25 percent to 40 percent annual returns. In Philadelphia, a failed computer salesman tried his hand at trading nonexistent futures contracts for 80 investors and surrendered to federal authorities this month after losing \$50 million.

A Ponzi scheme in Atlanta that promised investor returns of 20 percent every month through something called "30-day currency trading contracts" was shut down this month after losing \$25 million. And Tuesday, Arthur Nadel, a prominent money manager in Sarasota, Fla., and philanthropist turned himself in to the authorities. He had disappeared this month, just days before the Securities and Exchange Commission charged him in a \$300 million investment fraud that may be a Ponzi scheme.

Investors in many of the schemes were told that their money would go into stocks, foreign currencies and other investments and earn above-average returns — a deception backed up with what appeared to be legitimate monthly statements and fancy offices. Now, Ponzi-related losses are adding up to hundreds of millions of dollars.

The S.E.C. does not keep statistics on Ponzi fraud, but it has brought cases involving losses of over \$200 million since the beginning of October last year, including one against the disgraced Democratic donor Norman Hsu. Mr. Hsu was accused of using money from a \$60 million Ponzi scheme to make campaign donations to leading candidates, including President Obama and Secretary of State Hillary Clinton. (Mr. Obama and Mrs. Clinton later donated the money to charities.)

Regulators, chastened by failing to uncover the Madoff scandal, are focusing more on such swindles. The Commodity Futures Trading Commission, for instance, has established a new Forex Enforcement Task Force to prosecute Ponzi cases in which investors were told their money was being invested in foreign currencies. In 2008, the agency prosecuted 15 Ponzi schemes and expects that number to increase this year.

Last Thursday, Senators Charles E. Schumer, Democrat of New York, and Richard Shelby, Republican of Alabama, who are both influential members of the Senate Banking Committee, introduced legislation to provide \$110 million to hire 500 new F.B.I. agents, 50 new assistant United States attorneys and 100 new S.E.C. enforcement officials to crack down on such crimes.

“Ponzi schemes are against the law,” Mr. Schumer said in an interview. “But we have not had enough law enforcement officials. Madoff should have been stopped. Our proposal would not just provide more resources, but it would work like a posse to go after this fraud.”

Lawsuits brought by bilked investors and federal regulators are piling up in courts.

One case brought by the federal government against a North Carolina company called Biltmore Financial describes an apparent \$25 million fraud going back for 17 years that drew in more than 500 investors, many of whom were members of a Lutheran community in that state.

For an investment of as little as \$1,000, investors were told they were buying packages of mortgages with 10 to 20 percent annual returns. In reality, the money went to buy an Aston Martin convertible, a \$1 million recreational vehicle and vacation and rental properties for the head of the company, J. V. Huffman, who was charged by the S.E.C. last November.

Last week, the S.E.C. charged James G. Ossie of Atlanta with taking \$25 million from 120 investors — who had to invest a minimum of \$100,000 with him. Mr. Ossie even held periodic conference calls describing his trading strategy, which promised 10 percent monthly returns.

In the South Florida Haitian-American community, Mr. Theodule turned to churches. But his scheme fell apart in November when 40 investors showed up at Mr. Theodule’s office to try to get their money back.

“Theodule had been the king and lived in the community, and then one day he vanished,” said Mr. Roseme, the investor who lost \$35,000 in savings.

He described Mr. Theodule as “friendly, someone you could trust, a real positive guy.”

Nerline Horace-Manasse, a 31-year-old Haitian immigrant with six children, saw her life’s savings of \$25,000 disappear.

Statements showed her money had grown to \$90,000, but when Ms. Manasse asked questions of Mr. Theodule, “he advised he could not tell me where he was putting the money because there were a lot of copycats out there and he’d go out of business.”

Now Ms. Manasse and Mr. Roseme are part of a class-action suit against Mr. Theodule.

Mr. Theodule’s attorney, Matthew N. Thibaut, did not return a call for comment. But in court papers, Mr. Theodule said, “Theodule admits he has told persons that he wants to help build wealth in the Haitian community.”

Lynnley Browning contributed reporting.

MIAMI, Dec. 28, 2009

Busted Ponzi Schemes Quadrupled in 2009

More than 150 Pyramid Investment Schemes Collapsed; Many Came to Light Because of the Recession



(iStockphoto)

(AP) It was a rough year for Ponzi schemes in the United States. In 2009, the recession unraveled nearly four times as many of the investment scams as fell apart in 2008, with "Ponzi" becoming a buzzword again thanks to the collapse of Bernard Madoff's \$50 billion plot.

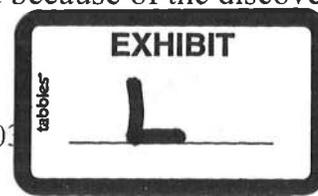
Tens of thousands of investors, some of them losing their life's savings, watched more than \$16.5 billion disappear like smoke in 2009, according to an Associated Press analysis of scams in all 50 states.

While the dollar figure was lower than in 2008, that's only because Madoff - who pleaded guilty earlier this year and is serving a 150-year prison sentence - was arrested in December 2008 and didn't count toward this year's total.

In all, more than 150 Ponzi, or pyramid, schemes collapsed in 2009, compared to about 40 in 2008, according to the AP's examination of criminal cases at all U.S. attorneys' offices and the FBI, as well as criminal and civil actions taken by state prosecutors and regulators at both the federal and state levels.

The 2009 scams ranged in size from a few hundred thousand dollars to the \$7 billion bogus international banking empire authorities say jailed financier Allen Stanford orchestrated, as well as the \$1.2 billion scheme they say was operated by disbarred Florida lawyer Scott Rothstein. Both have pleaded not guilty.

While enforcement efforts have ramped up - in large part because of the discovery of Madoff's



fraud, estimated at \$21 billion to \$50 billion - the main reason so many Ponzi schemes have come to light is clear.

"The financial meltdown has resulted in the exposure of numerous fraudulent schemes that otherwise might have gone undetected for a longer period of time," said Lanny Breuer, assistant attorney general for the U.S. Justice Department's criminal division.

A Ponzi scheme depends on a constant infusion of new investors to pay older ones and furnish the cash for the scammers' lavish lifestyles. This year, when the pool of people willing to become new investors shrank and existing investors clamored to withdraw money, scams collapsed across the country.

"Some portion of the investors in the Ponzi scheme always get the short end of the stick and do not get paid," said Elizabeth Nowicki, a former Securities and Exchange Commission attorney who now teaches law at Boston University.

Even those who say they did their homework before investing ended up losing everything.

A retired Air Force sergeant, Tom Annis searched the Internet for red flags like complaints or lawsuits involving Minneapolis-based host Patrick Kiley after hearing about his investment on a weekly Christian radio show called "Follow The Money."

Finding none, the 63-year-old from Jacksonville, Florida, invested his \$270,000 savings - money that has since evaporated after federal regulators shut down what they've called an elaborate, \$190 million Ponzi scheme.

"I tried to do my level of due diligence," Annis said. "How could I be duped like this after years of investing?"

Ponzi schemes, named for infamous swindler Charles Ponzi, are extremely simple: Investors attracted by promises of high profits are paid with money from an ever-increasing pool of new investors, with the scammer skimming off the top. Sometimes the investments are at least partially legitimate but more often are completely fictional. There's no reserve fund for lean times, or for when droves of investors start demanding their money.

Ponzi himself was an Italian immigrant who concocted a scheme in 1919 involving bogus investments in postal currency. He cheated thousands of people out of \$10 million, eventually

going to jail for wire fraud before being deported back to Italy in 1934.

Eighty years after his scheme, federal statistics paint the picture of a Ponzi nation:

-The FBI opened more than 2,100 securities fraud investigations in 2009, up from 1,750 in 2008. The FBI also had 651 agents working in 2009 on high-yield investment fraud cases, which include Ponzis, compared with 429 last year.

-The SEC this year issued 82 percent more restraining orders against Ponzi schemes and other securities fraud cases this year than in 2008, and it opened about 6 percent more investigations. Ponzi scheme investigations now make up 21 percent of the SEC's enforcement workload, compared with 17 percent in 2008 and 9 percent in 2005.

-The Commodity Futures Trading Commission filed 31 civil actions in Ponzi cases this year, more than twice the 2008 amount.

Many of the 2009 cases have yet to head to trial. In its tally, the AP counted schemes in which prosecutions were initiated or in which regulators filed civil cases in 2008 and 2009.

The Justice Department does not have totals of how many people were convicted in Ponzi schemes for either year, or for previous years.

Experts believe the recession was the main reason for the collapse of so many Ponzi schemes, though the Madoff case brought greater regulatory scrutiny and heightened public awareness. More people are inclined to raise questions when things don't look right.

"We do get a lot more questions from investors now," said Denise Voigt Crawford, Texas Securities Commissioner. "They are really worried about Ponzi schemes. That's a good thing."

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Business

Jacksonville broker Wayne McLeod confessed to Ponzi scheme

Days before McLeod was found dead, he confessed to a financial plot that was all a lie.

Posted: July 1, 2010 - 8:54pm

Back Photo: 1 of 2 Next



Wayne McLeod

By Abel Harding

After 22 years of telling hundreds of investors they were making healthy profits, Wayne McLeod finally admitted it was all a lie.

The promised government-secured bonds had never existed. The FEBG Bond Fund had been a scam all along.

Those were the confessions McLeod made to investigators from the Securities and Exchange Commission on June 17 about the fund he had formed in 1988.

The Jacksonville broker told investors "anything they wanted to hear" so they would invest their money, according to an SEC court filing.

Read more: The SEC filing against McLeod (.pdf, 764KB)

It was a stark contrast from an interview two days earlier, when McLeod denied to the same investigators that FEBG managed any funds or sent account statements to any investors. In fact, he told them he was the only investor in the fund, the document said.

One day after the confession, he told investors he was closing the fund. Four days later, he killed himself.

Investigators had been tipped off by an anonymous phone caller to the Financial Industry Regulatory Authority, which regulates securities.

Regulators are still trying to gauge the extent of McLeod's fraud, an effort complicated by the fact that he destroyed the records of fund investors he claimed had already been paid in full.

Investigators have said McLeod's Ponzi scheme brought in about \$35 million.

McLeod's far-flung victims are unique among the rash of Ponzi scheme victims that have emerged over the last several years — they are almost entirely federal employees. McLeod had a contract for several years to provide retirement seminars to employees from several agencies, including the DEA, FBI and Immigrations and Customs.

"It's so extraordinary that he chose to target this particular type of investor," said Chad Alan Earnst, assistant regional director of the SEC's Miami Regional Office.

The money invested in the FEBG fund paid for McLeod's high-rolling lifestyle, which included several houses, luxury automobiles and \$645,000 for Jaguars suites from 2005 to 2009.

Related: T-U coverage of Wayne McLeod

Michael I. Goldberg, the court-appointed receiver for McLeod's estate and companies, said he's searching for assets to help recoup the victims' losses.

"The estate has minimal assets right now," said Goldberg, a nationally recognized expert on Ponzi schemes. "We'll look at life insurance policies and other avenues to recover funds. That includes

looking at any who may have assisted Mr. McLeod in perpetuating his fraud."

McLeod's brokerage firm, F&S Asset Management Group Inc., was apparently a legitimate business.

He had previously been a broker registered with Lincoln Financial Securities Corp. But he told SEC investigators he ended that relationship in May because Lincoln attempted to conduct a "surprise audit in an adversarial manner."

Lincoln did not return a call for comment.

Because Lincoln was the only firm McLeod was still registered with, he was no longer legally able to sell securities, according to Herb D... spokesman for the regulatory authority.

If you were a client or former employee of Wayne McLeod's, please contact Times-Union columnist Abel Harding at abel.harding@jacksonville.com or (904) 359-4184.

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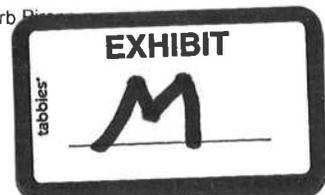
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Comments (16)

I wonder.

By Nighthawk | 07/01/10 - 09:53 pm

Will he REST IN PEACE.???.???

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real issue

By the real truth and facts | 07/01/10 - 10:00 pm

I wish the mayor had invested with this guy, so the mayor could be screwed by him like the mayor is doing to us.

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Makes Me Wonder

By Shakespeare S. Shakespeare | 07/01/10 - 10:23 pm

I don't believe this story. How could someone trick employees of federal agencies for twenty-two years? Where they asleep at the wheel? If he could screw them around like that, what else are they missing? Is there any wonder they can't find Bin Laden, didn't stop the Tower Planes and did not catch Timothy McVeigh before he killed all of those people. How protected are we, really? The bigger question is why would anyone do something like this guy did knowing that he couldn't get away with it forever? Was his intent to kill himself all the while. He was dead the minute he started. What for, with this end an inevitable one? The Bible is absolutely right: "What does it profit a man to gain the whole world and lose his soul." The words of Jesus! That settles that.

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We are all co-conspirators

By Liebold | 07/02/10 - 03:15 am

The Social Security System is the biggest Ponzi of them all! Still lyin' to your kids about Santa Claus?

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This is not news

By pedalboat | 07/02/10 - 05:17 am

This information appears to come from the affidavits provided as part of the legal proceedings against the estate

I have found this reporter's articles to be better than any writer at the TU, however, all of this information has been available for days.

Maybe a better story would be the empty water treatment plants built in St Johns county by JEA for "expansion". This unneeded infrastructure was built by JEA during the height of the real estate boom. Why was the Duval County owned JEA building in St Johns County? How much did this unnecessary infrastructure cost and even more important, how much did it contribute to the water bill increase?

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No Sympathy, but a worthy victim

By JeanSibellus | 07/02/10 - 07:23 am

What he did was plainly criminal if the facts are as stated. I have no sympathy for this guy and what he did, but at least he chose victims (federal employees) who are not easy to sympathize with (as compared to the local convent or old folks' home).

Sadly, what is criminal for an individual to do, is apparently perfectly fine for our gov't to do. Our gov't has played a shell game with Social Security funds and with our national debt for some time now. When are we going to wake up to their crimes against the people?

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@pedalboat, JEA is a business

By **CenturySon** | 07/02/10 - 08:02 am

The fact that it's a Duval municipal utility doesn't mean they are restricted by the county borders. JEA does business in neighboring counties like Clay, for example. They provide a service and sell it to anyone within reach. Just because St. Johns, Baker or Clay residents are outside Duval doesn't mean they should be exempt from getting screwed by the JEA like the residents of Jacksonville.

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We can thank

By **Jaxsmallfarmguy** | 07/02/10 - 08:17 am

republicans for deregulation of the banking industry. They've been messing with the banking rules for years. This would have been caught way before now if proper regulations were in place...but no...Mr Bush didn't want anything to do with that idea...

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I agree with Shakespeare

By **mp29960** | 07/02/10 - 09:17 am

22 years of duping friends, family, coworkers, investors and government.

It seems he must have been one very clever person, or the others are very incompetent.

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THE EASY WAY OUT

By **moffa** | 07/02/10 - 09:54 am

I am sure Wayne McLeod feels he took the easy way out. however, according to the word of Jehovah GOD; once his soul left his earthly body and went back to Jehovah; he was tried, found guilty and sentenced.

moffa

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By **Tedberens** | 07/02/10 - 11:06 am

Aw, gee, now the federal employees no longer have pensions -- just like most of the private workforce. Maybe they'll have to work into their 60s and 70s, just like the rest of us. Boo hoo.

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-0-0-

By **Tedberens** | 07/02/10 - 11:09 am

Wait a minute, did someone actually blame the Republicans when this guy has been at it for 22 years? LMAO. The problem is best stated as follows: The problem is not deregulation but DUMB regulation.

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Tables turned!

By **arnoldripkin** | 07/02/10 - 12:51 pm

At least it was underworked, overpaid, overbenefitted federal employees who have scamming us for years.

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Earth to Michael I. Goldberg

By **Asian Prince** | 07/02/10 - 01:34 pm

Life insurance does not pay for suicide.

Ho-hum, another mini-Madoff. The whole financial industry is filled with scammers and con artists. We will see many more of them.

I saw a poll yesterday that said that 68% of the people believe that the stock markets in the U.S. are a fraudulent, corrupt scam.

Everyone should be like me and trust no one. I keep the bulk of my vast wealth in the form of gold bullion hidden in my estate in Asia.

Wo-Hen Nankan, The Asian Prince (not gay)

Please do not judge all Asians by me as I am not a typical Asian.

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Mr. Hankey

By **NoahVale** | 07/02/10 - 02:09 pm

When this story first broke I thought I read some comments about what a great guy this guy was. When you do something like this, over a long period of time, it pretty much establishes that you're pretty lame. Even if a person is stellar 98% of the time, if that 2% is evil enough, it taints everything and is enough to weigh the score unfavorably. Then again, killing oneself, as bad as that is, does show some remorse (and selfishness), when there's no absolution in sight.

I guess he did all this with that *&%%\$ eating smile on his face. Oh well, like Sibelius said, at least he tapped federal employees and not the poor.

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JUST ANOTHER CROOK

By **9ROG** | 07/02/10 - 02:29 pm

Yes. Where are all those proclaiming what a great man he was? Seems like he was just another piece of scum, out to screw anybody he could. The world is a better place without him.

WASP

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June 6, 2010

Untangling a Ponzi Scheme With a Hollywood Twist

By NELSON D. SCHWARTZ

Visitors to the Fifth Avenue penthouse were enjoying cocktails, canapés and stunning views of Central Park on a cool May evening as a top New York jeweler laid out his wares for a rarefied group of potential buyers.

Kenneth I. Starr tried his best to seem interested in the display, but what he really wanted was introductions. Oh look, there's Taylor Dayne, the pop singer. Over there is Ahmad Rashad, the sportscaster and former professional football player. And come meet Michael Imperioli of "The Sopranos."

Mr. Starr, a Manhattan business manager and investment adviser, was shopping for shining stars, not stones.

He already counted celebrities like Al Pacino, Martin Scorsese and Ron Howard as clients, and whether it was opening night for one of Mr. Scorsese's movies or a charity event like this one hosted by Denise Rich, the socialite and songwriter, these affairs were fertile ground for Mr. Starr.

This 2006 party was no exception. Mr. Starr made the acquaintance of Jacob Arabov, a Harry Winston for the music world. The two became fast friends, with Mr. Starr eventually persuading Mr. Arabov to invest \$14 million with his firm.

That money is now gone — and Mr. Arabov is among the clients Mr. Starr is accused of defrauding in a \$30 million Ponzi scheme that has become the talk of celebrities from Hollywood to the Hamptons.

As with many scams, including the much bigger one perpetrated by Bernard L. Madoff, Mr. Starr used a mix of friendship and exclusivity to lure his victims, prosecutors say. Except in this case, the targets were a who's who of actors, directors, writers and other artists with cachet.

Whether it was entree to hot Manhattan clubs like Butter and Bungalow 8, introductions to the likes of Mr. Scorsese, or access to exclusive deals on Wall Street, Mr. Starr always seemed to know what his famous clients wanted, or at least what they wanted to hear.

He would tell Hollywood figures of his connections on Wall Street, while regaling Wall Streeters with stories of Hollywood. And whether the target was an aging heiress or an A-list actor, the routine often worked, according to interviews with current and former clients.



“He exuded confidence and ease,” said Robert Benton, who wrote the screenplay for “Kramer vs. Kramer,” “Superman” and other films and was a client of Mr. Starr’s.

“There was something so engaging about him.”

Mr. Starr, who is not related to the special prosecutor of the same name who investigated President Bill Clinton, seemed eager to leave behind his more mundane existence paying bills, mailing checks and preparing taxes for celebrity clients, aiming to join the exclusive world he served.

He was a fixture at movie premieres — just weeks ago, he attended the opening night party at the Four Seasons for “You Don’t Know Jack,” the HBO film starring Mr. Pacino. Jonathan Demme, the film director and another client, gave him a cameo in the movie “Philadelphia.” And Mr. Starr was a long-standing member of the board of trustees of New York University Law School.

Mr. Starr was also adept at parlaying friendships into business opportunities.

Several clients recalled that he flaunted his relationship with Pete Peterson, a founder of the Blackstone Group, an investment and advisory firm, and a prominent philanthropist, lunching with him at the Four Seasons and frequently dropping his name. Mr. Starr, in turn, invested \$90 million in Blackstone funds on behalf of clients like Neil Simon and Wesley Snipes, according to a 2008 lawsuit. Mr. Peterson declined to comment.

Mr. Starr also bragged of being close to Alan C. Greenberg, the former chairman of Bear Stearns, but the two were barely acquainted, according to Mr. Greenberg.

“I had some clients that used him, but I’ve only spoken to him a few times,” Mr. Greenberg said in an interview.

Nevertheless, these wisps of Wall Street credibility were enough to convince Hollywood that Mr. Starr had powerful links to the financial world. “My impression was that he had very substantial contacts on Wall Street, with private equity firms and hedge funds,” said Bertram Fields, an entertainment lawyer who has represented Michael Jackson and the Beatles, and is an acquaintance of Mr. Starr’s.

What connections Mr. Starr does possess have been of little help since his arrest on May 27. He remains behind bars at the Metropolitan Correctional Center in downtown Manhattan, after prosecutors argued that he might flee if released on bail. A public defender appointed to represent him declined to comment.

Meanwhile, many questions about Mr. Starr’s suspected scheme are still unanswered, most notably, just how many clients might he have defrauded?

Without identifying them by name, the criminal complaint cites seven people whose money, prosecutors say, was misappropriated by Mr. Starr. Prosecutors are still trying to determine how extensive the suspected fraud was and say they expect the number of victims to multiply.

Now, the people who placed money with Mr. Starr over the years are frantically trying to determine if their accounts are in order.

“It’s all anybody is talking about in the Hamptons or California,” said Lynn Grossman, who with her husband, the actor and director Robert Balaban, was a client of Mr. Starr’s in the 1990s. “This is a handshake business, and he was the guy you went to when you didn’t want your money stolen. He was considered shrewd, not slimy.”

That began to change after a 2002 lawsuit by Sylvester Stallone accused Mr. Starr of mismanaging a failed investment in Planet Hollywood. Mr. Starr’s private life also became more tumultuous — he left his third wife in 2007 for Diane Passage, a pole dancer and former stripper at Scores, the Manhattan club.

Ms. Passage, who prosecutors say benefited from Mr. Starr’s purported fraud, certainly drew attention. But the marriage alarmed clients. “When your business manager marries a stripper, that’s a tell,” Ms. Grossman said. And although Mr. Starr continued to make appearances at the Grill Room of the Four Seasons and at Oscar parties in Los Angeles, more and more clients started to defect over the last five years.

Lauren Bacall, the actress and widow of Humphrey Bogart, fired Mr. Starr after decades with him, as did Diane Sawyer, the broadcaster, and her husband, the film director Mike Nichols. The pressure increased in April 2008, when Joan A. Stanton, who was the voice of Lois Lane in the “Adventures of Superman” on radio in the 1940s as well as an heiress to a \$70 million estate, sued Mr. Starr, accusing him of fraud.

Foreshadowing the accusations he now faces, Ms. Stanton said that Mr. Starr diverted tens of millions of dollars from her fortune into risky assets he controlled, while providing her with bogus statements that masked the withdrawals. In the close-knit world of Hollywood, where clients are won and lost by word of mouth, talk of the suit quickly spread.

In January 2010, the family of Ms. Stanton, who died last year, settled with Mr. Starr, but the end of the suit coincided with an exodus of professionals from Mr. Starr’s company, including longtime associates like Arnold Herrmann and Sanford Miller. They joined a rival firm, Citrin Cooperman & Company, and took numerous clients with them, including Mr. Demme and Mr. Scorsese.

Mr. Starr’s lifestyle did not seem to change — if anything it became more lavish in the weeks leading up to his indictment. In April, he used money from clients like Rachel Mellon, an heiress to the Mellon banking fortune, and Uma Thurman, the actress, to buy a \$7.5 million Upper East Side condominium with a 32-foot lap pool, according to the complaint and interviews with people familiar with the case.

Ten days later, prosecutors say, when Ms. Thurman demanded \$1 million back from Mr. Starr, he returned it by siphoning it from the account of James Wiatt, a longtime friend and former head of the William Morris talent agency.

It is a testament to Mr. Starr's charm that even some clients who stuck with him until the end and might yet turn out to be victims acknowledge a trace of sympathy. "I know what he is accused of doing," Mr. Benton said, "but all I kept thinking is how sad it is that he's sitting in jail."

Alain Delaqu erie contributed reporting.

Feb. 14, 2010

Pigeon Fever: Ponzi Schemes Still Thriving

Morley Safer Takes a Look at Why People Are Too Trusting and Gullible



Play CBS Video Scams: Pigeon Fever

It's been just over a year since Bernard Madoff's multi-billion dollar Ponzi scheme fell apart. But, as Morley Safer reports, despite all the news about the scandal, similar scams are still thriving.



(CBS)

(CBS) The ancient wisdom that there's a sucker born every minute has been especially pertinent given the financial disasters of the past few years. So it's time for a short and painless test: are you sometimes just too trusting? Do you invest in things you don't really understand? Are you also a bit greedy? Then, you too could be suffering from "pigeon fever."

"Pigeons" are what con men call their victims.

After a year of revelations about Bernard Madoff, who cheated investors out of billions, you might think Americans have wised up. Fat chance.

Prosecutors and regulators tell us that even in this age of skepticism, Ponzi schemes like Madoff's are thriving. One regulator even calls it "ponzimonium."

Why are there so many pigeons around? **60 Minutes** correspondent **Morley Safer** asked a few people who should know.

Web Extra: Conning Al Capone

Web Extra: Conned!

Web Extra: Fooling 60 Minutes

"As a student of con games and deception, were you at all surprised by the Bernie Madoff scam?" Safer asked Ricky Jay.

"Would you be surprised if I told you that I predicted it?" he replied.

We approached Jay, America's foremost card sharp. He's an actor, sleight of hand artist, a man with an encyclopedic knowledge of con men past and present.

He told us of a talk he gave seven years before Madoff's fall.

"Beware of someone well established in the industry," he warned.

It was a lecture on financial fraud to a gathering of police officers in 2001.



"I would also beware of someone who will rely heavily on an affiliation with an investor group, be it religious, ethnic, or geographic," he told the group.

He was describing Madoff to a T.

"I think these elements will make the market ripe for any sort of pyramid or Ponzi scam," Jay said.

"And that is pure Bernard Madoff," Safer remarked.

"It's pure Bernie Madoff. But can I tell you another element of the con? That I actually made this page on Photoshop last night and put it into this bulletin. And I did that to prove a point, and the point is..." Jay told Safer, showing him a doctored magazine.

"You got me," Safer said.

"...you set it up by saying that I was a student of cons and that I'm knowledgeable in that area," Jay explained.

"And so, you allowed my supposed expertise to make you believe this is true. This magazine is true. I really have lectured to this group of police against confidence crime. Everything is true except for this page which I slipped in last night."

So what's the moral? Trust no one?

"We wouldn't want to live in a world where we couldn't be conned because in effect we would then be living in a world where we mistrusted or refused to trust anyone. So this is the price we pay," Jay said.

And pay we have: in the wake of the Madoff scandal, Ponzi perp walks have become a marathon.

There's Texas financier Allen Stanford, accused of a \$7 billion Ponzi scheme; Minnesota businessman Tom Petters, convicted recently of a \$3 billion scam; and Park Avenue lawyer Marc Dreier, mastermind of a "mere" \$400 million Ponzi scheme that landed him first on "60 Minutes" and then in federal prison.

"I thought if someone would ever interview me on a program such as yours, it'd be for something good I've done, not something humiliating I've done," Dreier told correspondent Steve Kroft.

Continued

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Petters Q&A with Assistant U.S. Attorney Hank Shea

by Elizabeth Dunbar, Minnesota Public Radio

December 3, 2009

MPR's Morning Edition took a deeper look at the Tom Petters case in an interview with Hank Shea, a former Assistant U.S. Attorney who is now a professor at the University of St. Thomas School of Law and is an expert in white-collar crime. Below is an edited transcript of the interview.

Q: Are you surprised Tom Petters was found guilty on all 20 counts?

A: No, I'm not. In this type of case, particularly when a defendant takes the stand, it is typically an all or nothing proposition, so I'm not surprised by the unanimous verdict on all the counts.

Q: Petters plans an appeal. What are his chances of succeeding?

A: Slim, probably none. There are issues that his attorneys will raise that have been raised in similar contexts, and from all appearances this case was run professionally, the case was tried well, and there really are no serious issues to be raised on appeal that I'm aware of.

Q: What factors does the judge weigh in deciding the amount of the sentence?

A: There'll be a report prepared for the court by the U.S. Probation Office. They will focus on a whole range of characteristics of the defendant, the nature of the crime, the impact on the victims. But the most important thing for sentencing will be the calculation of the sentencing guidelines that would apply to this as in any other case. And those guidelines, while they're no longer mandatory, are still to be considered by the court in imposing sentence.

Q: How does the Petters case compare to some of the cases you saw when you were a federal prosecutor?

A: Minnesota sadly has seen its share of big time white collar crooks. Prior to Tom Petters, Hal Greenwood probably caused the most damage to our state and losses to victims, and that was 20 years ago. But Tom Petters' Ponzi scheme makes Hal Greenwood look like a petty thief. Without Bernie Madoff, Tom Petters would be the biggest white collar crook in the history of the United States in terms of stealing other people's money.

Q: You've seen a lot of white-collar criminals over the years. What drives otherwise privileged, wealthy, successful people to turn to crime?

A: Tom Petters in some ways is a classic conman. He is charismatic, he was conniving, he generously rewarded his enablers, as well as his cohorts, with all sorts of money and other incentives to buy their loyalty and silence. But he, like Madoff, took criminal activity to a level that we rarely have even been able to contemplate before. There's a lot of questions about why that happened, and I think some of them remain unanswered even after this trial. But when you get down to it, this was Tom Petters' scheme. He was the orchestrator; he was the man who was responsible for this huge, almost unquantifiable damage that has been caused.



Q: How many others like Petters are out there?



A: We don't know. The important thing I think for all of us to recognize is that the reason this case came forward when it did was because one person stood up and did the right thing and reported the wrongdoing to authorities. And there are other people out there who are like Deanna Coleman. It's a question of courage. We don't know the whole story involving her decision to come forward, but we do know it took a lot of guts to turn herself in, and to then go and tape-record her boss. There are other people who are out in our community right now who are in the same position she was in who know about people cheating on their taxes or stealing money from vulnerable adults or lying to school officials. We need to create a culture and an environment where they too will step forward and report wrongdoing.

Q: Does a trial like Petters' serve to be some sort of deterrent for others out there, or is human greed too much to overcome something like that?

A: Punishment is necessary in a situation like this, and it will deter some, but I think the problem you raised is not going to be resolved by prosecutors or judges or trials. It needs to be addressed in a far more systemic way for all of us -- in our families, in our schools, in our communities. The problem of human greed is one that's been with us for the ages, but as a society we need to start doing something about our character, and our integrity, and our ethics now. And I hope that's what a trial like Tom Petters will do for all of us--to make us recognize that as bad as the economic times are that we're facing, this is emblematic of a crisis in our state and even in our nation. It's a crisis of integrity and ethics. We need to work together to somehow figure out how we can make the next generation behave differently than too many of our current generation have.

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United States of America,

CERTIFICATE OF SERVICE

Plaintiff,

Criminal No. 08:08CR00304-001(RHK)

v.

Deanna Lynn Coleman,

Defendant.

I hereby certify that on August 16, 2010, I caused the following documents:

DEFENDANT'S POSITION WITH REGARD TO SENTENCING

to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

Joseph T. Dixon, III
Assistant U.S. Attorney
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

I further certify that I caused a copy of the foregoing documents and the notice of electronic filing to be mailed by first class mail, postage paid, to the following non-ECF participants:

The Honorable Richard H. Kyle
Senior Judge of U.S. District Court
14E U.S. Courthouse
316 North Robert Street
St. Paul, MN 55101

Peter I. Madsen
U.S. Probation Officer
316 North Robert Street
Suite 600
St. Paul, MN 55101

Dated: August 16, 2010

s/ Sarah J. Riley
Legal Assistant to Allan H. Caplan